

## **MULTI-YEAR FESTIVAL LEASE AGREEMENT**

This **MULTI-YEAR FESTIVAL LEASE AGREEMENT** (the "Agreement") is by and between the **CITY AND COUNTY OF DENVER** (the "City"), a Colorado municipal corporation and **DENVER FESTIVALS LLC** ("CONCESSIONAIRE"), a foreign limited liability company authorized to do business in Colorado, whose principal office address is 381 Park Avenue South, 16th Floor, New York, NY 10010.

**WHEREAS**, the City owns and operates through its Department of Parks and Recreation, Overland Park Golf Course, located at 1801 S. Huron Street, Denver, Colorado ("Overland Park"), and CONCESSIONAIRE desires to use Overland Park for an annual, multi-day, multi-stage musical festival (the "Festival"); and

**WHEREAS**, in accordance with City Charter §2.4.4(A) and §2.4.4(C), the Department of Parks and Recreation is vested with the power to grant to a license and privilege to operate concessions and provide goods and services in all parks; and

**WHEREAS**, §2.4.5 of the Denver City Charter permits that property in parks may be leased for park purposes to concessionaires; and

**WHEREAS**, the City has determined that in the exercise of its lawful functions it is desirable to permit CONCESSIONAIRE to use Overland Park for the Festival, and finds that such use is a park purpose and is compatible and appropriate within the uses allowed for Overland Park; and

**WHEREAS**, the parties desire that the Festival generate exposure for the City with an end result of economic benefits and positive community relations; and

**WHEREAS**, CONCESSIONAIRE hereby agrees to utilize Overland Park for the Festival subject to the terms and provisions of this Agreement;

**NOW, THEREFORE**, the City, for the Terms specified below and in consideration of the terms and conditions stated in this Agreement, hereby grants to CONCESSIONAIRE the right to use Overland Park for the Festival subject to the express terms and conditions as follows:

### **AGREEMENT**

#### **1. DEFINITIONS**

1.1 Agreement. "Agreement" shall mean this Multi-Year Festival Lease Agreement, and all amendments and extensions thereto.

1.2 Applicable Law. "Applicable Law" shall mean any law, governmental rule, regulation or ordinance, or judicial order or decree, including without limitation the Denver Charter, Denver Revised Municipal Code, Rules and Regulations, and Executive Orders of the City, as the same may be amended from time to time and as such amendments are consistent with the terms and provisions of this Agreement.

- 1.3 Broadcast. "Broadcast" shall mean the dissemination of video, film, or radio content via electronic means including but not limited to high definition, standard and cable television, radio, web casting, web streaming, downloads, and/or other forms of digital transmission, digital broadcast or digital distribution effectuated by means of the internet in all forms of television media now and hereafter known.
- 1.4 City. "City" shall mean the City and County of Denver and all of its departments and agencies.
- 1.5 City Liaison. "City Liaison" shall have the meaning set forth in Section 6.3 herein.
- 1.6 City Services. "City Services" shall have the meaning set forth in Section 6.1 herein.
- 1.7 Clean-Up Plan. "Clean-Up Plan" shall have the meaning set forth in Section 10.6 herein.
- 1.8 Competing Festival. "Competing Festival" shall have the meaning set for in Section 4.1 herein.
- 1.9 Concession Facilities. "Concession Facilities" shall mean the Overland Park facilities operated by the City's concessionaire at Overland Park for the sale of Concessions from which the City's concessionaire shall offer for sale Concessions within the Festival Area (as defined below).
- 1.10 Concession Plan. "Concession Plan" shall have the meaning set forth in Section 11.1 herein.
- 1.11 Concessions. "Concessions" means the business of selling food, drinks (including permitted alcohol), art, merchandise and music.
- 1.12 Confidential Information. "Confidential Information" shall have the meaning set forth in Section 12.2(a) herein.
- 1.13 Damage Deposit. "Damage Deposit" shall have the meaning set forth in Section 8.4 herein.
- 1.14 Day. "Day" shall mean business day, unless otherwise specified in this Agreement. If a deadline or date of compliance falls on a weekend day or a City, State or Federally observed holiday, then the next business day thereafter shall be the applicable date for the deadline or date of compliance.
- 1.15 Default. "Default" shall have the meaning set forth in Section 17 herein.
- 1.16 Effective Date. "Effective Date" shall mean the date upon which the Mayor has executed this Agreement.
- 1.17 Emergency Services Plan. "Emergency Services Plan" shall have the meaning set forth in Section 10.3 herein.
- 1.18 Festival. "Festival" shall have the meaning set forth in the Recitals herein.

1.19 Festival Area. "Festival Area" shall have the meaning set forth in Section 2.4 herein and shall be as depicted in **Exhibit A** attached hereto and incorporated by reference unless modified as provided by this Agreement.

1.20 Festival Dates. "Festival Dates" shall have the meaning set forth in Section 2.2 herein, and shall include such dates as modified by the parties in accordance with this Agreement.

1.21 Festival Name. "Festival Name" shall mean the name(s) for the Festival designed by CONCESSIONAIRE, and all derivative and related names thereof.

1.22 Festival Permit. "Festival Permit" shall have the meaning set forth in Section 3.1 herein.

1.23 Festival Times. "Festival Times" shall have the meaning set forth in Section 2.3 herein.

1.24 Fire Plan. "Fire Plan" shall have the meaning set forth in Section 10.2(a) herein.

1.25 Golf Concessionaire. "Golf Concessionaire" shall mean that concessionaire with whom the City contracts to provide food and beverage concessions for the Overland Golf Course, exclusive of the Festival.

1.26 Historical Priority. "Historical Priority" shall mean those permittees that have earned the right or privilege to hold events in a particular park location on a specified date and time in accordance with the Department of Parks and Recreation's Public Event Policy, as adopted October 25, 2016.

1.27 Intellectual Property. "Intellectual Property" shall have the meaning set forth in Section 3.4 herein.

1.28 Load-In Time. "Load-In Time" shall have the meaning set forth in Section 2.5.

1.29 Load-Out Time. "Load-Out Time" shall have the meaning as set forth in Section 2.5.

1.30 Losses. "Losses" shall have the meaning set forth in Section 14.1 herein.

1.31 Maximum Attendance. "Maximum Attendance" shall have the meaning set forth in Section 2.7 herein.

1.32 Manager or Executive Director. "Manager" or "Executive Director" shall mean the Executive Director of the City and County of Denver Parks and Recreation Department.

1.33 Overland Park. "Overland Park" shall have the meaning set forth in the Recitals herein.

1.34 Personal Property. "Personal Property" shall have the meaning set forth in Section 13.1 herein.

1.35 Facilities Development Admissions Tax. "Facilities Development Admissions Tax" shall have the meaning set forth in Section 9.2 herein.

1.36 Security Plan. "Security Plan" shall have the meaning set forth in Section 10.2(b) herein.

1.37 Load-In/Load Out Plan. "Set Up Plan" shall have the meaning set forth in Section 10.4 herein.

1.38 Signage Plan. "Signage Plan" shall have the meaning set forth in Section 10.5 herein.

1.39 Subcontractor. "Subcontractor" shall mean any subcontractor, independent contractor, agent, artist, band, act, vendor, concessionaire, volunteer, or other party that CONCESSIONAIRE contracts with or engages to perform its responsibilities or services hereunder.

1.40 Temporary Suspension. "Temporary Suspension" shall have the meaning set forth in Section 2.2(b) herein.

1.41 Term. "Term" shall have the meaning set forth in Section 7.1 herein.

1.42 Traffic Control Plan. "Traffic Control Plan" shall have the meaning set forth in Section 10.1 herein.

1.43 Trash Plan. "Trash Plan" shall have the meaning set forth in Section 10.6 herein.

1.44 Water Plan. "Water Plan" shall have the meaning set forth in Section 10.7 herein.

## **2. FESTIVAL**

2.1 Name. The name of the Festival shall be designated by CONCESSIONAIRE.

2.2 Dates. Except as otherwise agreed by the parties in writing in accordance with the terms of this Agreement, CONCESSIONAIRE shall have the right to hold the Festival on the second or third Friday, Saturday and Sunday of September of each year ("**Festival Dates**") during the Term of this Agreement. The City agrees to reserve the Festival Dates at Overland Park for each year for the duration of this Agreement unless the Festival Dates are modified or the Festival is temporarily suspended as provided in this Section 2.2.

(a) The Festival Dates may be altered if the parties agree to mutually acceptable alternative dates no later than November 1 of the year prior to the next year in which a Festival is to be held. The Festival shall only occur on a Friday, Saturday and/or Sunday and shall not conflict with any similar events or festivals with Historical Priority. In any year of the Festival CONCESSIONAIRE shall only hold the Festival after Labor Day and in no case shall CONCESSIONAIRE take possession of Overland Park for the Festival, including for Load-In as set forth below, earlier than the Tuesday after Labor Day. Festival Dates may be modified as set forth in Section 2.8, below.

(b) CONCESSIONAIRE may decide in its sole discretion not to hold a Festival for one or more years during the Term of this Agreement ("**Temporary Suspension**"). CONCESSIONAIRE shall notify the Manager in writing prior to December 15 of the prior year



any Festival it wishes to temporarily suspend. In no event shall Temporary Suspension be considered a termination of or default under this Agreement. Festival Date may be modified as set forth in Section 2.8, below. For any year CONCESSIONAIRE does not hold the Festival, then an additional year shall be added to this Agreement for the purpose of holding the Festival, not to exceed two-year extensions during the term of this Agreement.

2.3 Festival Times. The Festival's hours of operation for music performance shall be as follows:

Friday 12:00 p.m. – 10:00p.m. (Doors open at 10:30 a.m.) Saturday 12:00p.m. – 10:00p.m. (Doors open at 10:30 a.m.) Sunday 12:00p.m. – 10:00 p.m. (Doors open at 10:30 a.m.) (hereinafter, collectively referred to as the "**Festival Times**").

2.4 Festival Area. The Festival shall be held in Overland Park in the area depicted in Exhibit A attached hereto and incorporated by reference ("Festival Area"). The Festival Area may be modified for future Festivals as the Maximum Attendance is increased pursuant to Section 2.7 herein and subject to approval by the Director.

2.5 Load-In and Load-Out Times; Recovery.

(a) Load-in and possession of the Festival Area and Load-In and Load-Out Area (including for licensing purposes) shall begin at 7:00 a.m. two (2) weeks prior to the Festival Dates ("Load-In Time"). The Load-In date may be changed by mutual written agreement and subject to approval by the Director. However, in no case shall CONCESSIONAIRE take possession of the Festival Area earlier than the Tuesday after Labor Day in any year the Festival is held. Load-out and clean-up of the Festival Area shall be completed and possession of the Festival Area terminated by 10:00 p.m. three (3) weeks immediately following the end of the Festival Dates ("Load-Out Time"). Load-In and Load-out times and activities are subject to the approved Load-In/Load Out Plan per Section 10.4.

(b) The 3-week The Load-Out Time also includes Recovery Period ("Recovery") wherein CONCESSIONAIRE will cooperate with the City in restoring the grounds and area on which the Festival occurred to its prior original state and condition, as discussed more fully herein. The last day of Load-Out, including Recovery, shall be a reasonable date determined at the sole discretion of the City and be predicated upon the Overland Golf Course being playable for the golfing public. Should the Load-Out period extend beyond 3 weeks, CONCESSIONAIRE shall pay Denver Golf \$5,000 per day until Recovery is complete. Should the Load-Out period be less than 3 weeks, the City will credit CONCESSIONAIRE \$5,000 per day for the number of days between Recovery completion and 3 weeks.

(c) No activity in the Park, including Load-In and Load-Out is permitted between the hours of 11:00 p.m. and 7:00 a.m. the next morning, except that set up and testing of Festival stage lighting may occur outside these hours as long as noise (including amplified sound from music performance) and light generated by that activity does not unreasonably disturb residents in the neighborhood around Overland Park

2.6 Load-In and Load-Out Area. The load-in and load-out area shall be the area depicted on a map included in the Load-In/Load out plan and approved per Section 10.4.

2.7 Attendance. CONCESSIONAIRE shall insure that attendance at the Festival will not exceed eighty thousand (80,000) people per day ("Maximum Attendance") unless otherwise agreed to by the Manager of Parks and Recreation (the "Manager").

2.8 Modifications. The dates, times, areas (including Load-In and Load-Out areas), and attendance limits of the Festival may be modified or changed only by mutual written agreement of CONCESSIONAIRE and the Manager. In the event of an unanticipated emergency or threat to public health or safety, the times (but not the dates), areas, and attendance limits of the Festival may be unilaterally modified or changed by the Manager, upon consultation with and prior written notice to CONCESSIONAIRE, if the Manager believes that such modifications or changes are needed to address health, safety, crowd control or security concerns or otherwise to comply with any Applicable Law.

### 3. **AUTHORIZATION**

3.1 Permit. By this Agreement and subject to its terms and conditions, the City grants a permit to CONCESSIONAIRE for the exclusive right (except for Concessions as set forth herein) to stage and conduct the Festival and associated activities defined throughout this Agreement; install, operate and maintain related facilities; perform Load-In and Load-Out; to perform all work and obligations as contemplated by the approved Plans; and to engage in the activities specified and as contemplated herein ("**Festival Permit**").

(a) CONCESSIONAIRE may enter into separate agreements with properly licensed Subcontractors, including the City's Golf Concessionaire, and subject to the City's prior written consent and subject to Section 19.5, which consent shall not be unreasonably withheld, to sell and dispense alcoholic beverages on the licensed premises to patrons within the Festival Site during the Festival dates and times. CONCESSIONAIRE shall provide the City a written copy of any written agreement reflecting the agreement with the CONCESSIONAIRE, including any required insurance, bonds and other assurances.

3.2 Use and Occupancy. CONCESSIONAIRE, subject to all of the terms and conditions of this Agreement and to the extent authorized by law, shall have:

(a) During the Festival Dates, Load-In Time and Load-Out Time, the exclusive right to install and remove Concession Facilities and to construct, place, or otherwise locate Festival materials and facilities within the Festival Area.

(b) During the Festival Dates, the exclusive right to use the Festival Area to produce and conduct the Festival.

(c) (i) During the Festival Dates, and subject to coordination with the City and the City's Golf Concessionaire in Overland Park, the right for the sale and consumption of alcohol within the Festival Area except for the Overland Park clubhouse, subject to the provisions in subsections 3.2 (d) below, subject to the terms and conditions of all relevant permits and licenses therefore, and further subject to

the provisions of subsections 3.2(c)(ii) and (iii) below. In accordance with this section, CONCESSIONAIRE and/or its Subcontractors shall obtain all necessary permits and licenses otherwise required for the sale and consumption of alcohol within the Festival Area except for the Overland Park clubhouse, such as sales tax licenses, health and safety permits, alcoholic beverage licenses, and any other permits or licenses that may be required by any and all applicable governmental entities. If CONCESSIONAIRE reasonably cannot obtain a liquor license, then CONCESSIONAIRE shall have the right to cancel the Festival for any year pursuant to Section 7.4 herein.

(ii) After January 1, 2018, CONCESSIONAIRE shall have the right to use the Overland Park Starter Shack (the “Starter Shack”), a small, brick, one-story structure located near the Overland Park clubhouse. CONCESSIONAIRE may apply for a license for the sale and consumption of alcohol at the Starter Shack during the term of this Agreement. CONCESSIONAIRE may annually apply for a temporary modification of its liquor license for the Festival Dates to include the golf course, but excluding the Overland Park clubhouse. CONCESSIONAIRE’S modified license shall temporary and automatically revert to its original premises on a date certain no later than the end of the Load-Out Time.

(iii) The City’s contract with its current Golf Concessionaire for Overland Park is anticipated to be extended through December 31, 2017. In the near future, the City expects to issue a request for proposals for Overland Park Concessions for a term beginning on January 1, 2018, which concession will include the Golf Concessionaire applying for and obtaining a liquor license for the premises, including the clubhouse and optional premises of the golf course, but excluding the Starter Shack. In its request for proposals and its contract with the prevailing bidder, the City will require the future Golf Concessionaire to annually apply for a temporary modification of its liquor license for the Festival Dates, within a reasonable and sufficient time. The temporary modification will reduce the Golf Concessionaire’s liquor license premises to the Overland Park clubhouse and eliminating the remainder of Overland Park from its licensed premises during the Festival Dates. The Golf Concessionaire’s modified license shall be temporary and automatically revert to its original premises on a date certain after reversion of the temporary modification of the CONCESSIONAIRE’S license referenced above. In the event that the prevailing bidder is the current Golf Concessionaire, the City will require that bidder to modify the premises of its current liquor license to exclude the Starter Shack for the term of this Agreement.

(d) CONCESSIONAIRE will have the right to occupy the clubhouse during Load-In and Load-Out and the Festival Dates under one of the following options:

(i) CONCESSIONAIRE shall be limited to occupancy of the common areas only. The Kitchen is excluded from CONCESSIONAIRE’s occupancy.

CONCESSIONAIRE is responsible for erecting a barrier that prohibits entry by anyone to the kitchen. The City agrees to include this requirement in anticipated or future agreements with the Golf Concessionaire. Any permits required for the intended use will be obtained and paid for by CONCESSIONAIRE; or

(ii) CONCESSIONAIRE may make arrangements directly with the Golf Concessionaire for the Golf Concessionaire to provide any combination of food, beverage and alcohol service in the clubhouse. CONCESSIONAIRE will not be required to erect a barrier preventing entry to the kitchen. The City will not require the Golf Concessionaire to agree to CONCESSIONAIRE's arrangement; or

(iii) CONCESSIONAIRE may make arrangements directly with the Golf Concessionaire for CONCESSIONAIRE to provide any combination of food, beverage and alcohol service at the clubhouse. CONCESSIONAIRE will not be required to erect a barrier preventing entry to the kitchen. The City will not require the Golf Concessionaire to agree to CONCESSIONAIRE's arrangement.

(iv) Regardless of which option CONCESSIONAIRE elects, CONCESSIONAIRE shall notify the City in writing of its election. CONCESSIONAIRE shall not occupy or utilize the "Pro Shop" for any reason. City and CONCESSIONAIRE shall perform pre-Festival and post-Festival walkthrough inspections of the clubhouse and/or kitchen, and CONCESSIONAIRE shall be responsible for any repairs or damage, consistent with Section 8.

(e) During the Festival Dates, and subject to coordination with the City and the Golf Concessionaire, the right to Concessions within the Festival Area except for the Overland Park clubhouse. The City's contract with its current Golf Concessionaire for Overland Park is anticipated to extend until December 31, 2017. In the near future, the City expects to issue a request for proposals for Overland Park Concessions for a term beginning on January 1, 2018. In its request for proposals and its contract with the prevailing bidder, the City will require the Golf Concessionaire to modify its right to Concessions to the Overland Park (excluding the clubhouse) during the Festival Dates. The Golf Concessionaire's exclusive right to provide concessions to the golf course shall automatically revert immediately after the Festival Dates. CONCESSIONAIRE and/or its Subcontractors shall obtain all necessary permits and licenses otherwise required for such Concessions, such as sales tax licenses, health and safety permits, and whatever other permits or licenses may be required by any and all applicable governmental entities. CONCESSIONAIRE, at the Golf Concessionaire's option, will either (i) pay the Golf Concessionaire Twenty-Five Thousand Dollars and No Cents (\$25,000.00); or (ii) otherwise work in good faith with the Golf Concessionaire to purchase services or products from such Golf Concessionaire during the Festival Dates, Load-In Time and Load-Out Time at reasonable market rates. It shall be

CONCESSIONAIRE's obligation and responsibility to obtain any required assignment of rights, and the City's prior written consent for such assignment, for Concessions.

(f) This agreement and the permit granted hereby shall be conditional on Concessionaire conducting the Concession in accordance with the Concession Plan, and Concessionaire and its Subcontractor obtaining, paying for and complying with all necessary permits and licenses required for such Concession, such as sales tax licenses, health and safety permits, and whatever other authorizations may be required for the Concession by Applicable Law.

(g) The exclusive right to permit and sell advertising and sponsorship rights, merchandise, hospitality space (including but not limited to tents), and signage during the Festival Dates and within the Festival Area, subject to City requirements and approval. This subsection (f) is subject to provisions and limitation in Section 6.6, Limitation on Sponsorships.

(h) While using the rights herein, Concessionaire shall use and occupy the Festival Area, Load-In Area and Load-Out Area in a safe and careful manner and shall comply with all Applicable Law.

3.3 Names and Logos of the City and its Park. The City grants to Concessionaire the non-exclusive right to use and sublicense the City's and Overland Park's names and logos in connection with producing the Festival; provided that such use or sublicense to the extent it utilizes either (i) the City's trademarked name, logo or flag shall be subject to the prior consent of Denver Brand Center, which consent shall not be unreasonably withheld; or (ii) Overland Park's trademarked name or logo shall be subject to the prior consent of the Manager, which consent shall not be unreasonably withheld. In no event shall Concessionaire represent or indicate, or by the particular use of a name, flag or logo imply, that the City is a sponsor of the Festival, a partner with Concessionaire, or engaged in any joint venture with Concessionaire, with respect to the Festival. The City hereby expressly agrees to Concessionaire use of the Festival Name.

3.4 Names and Logos of Concessionaire. The City may not use the name of Concessionaire or any logos, trademarks, trade names or other intellectual property (the "**Intellectual Property**") owned by or licensed to Concessionaire or its affiliates without the prior written approval of Concessionaire, which may be given or withheld in Concessionaire's sole discretion. In the event that Concessionaire grants the City any rights to use any Intellectual Property, the City shall strictly comply with any such authorization. The City acknowledges and agrees that it shall obtain no ownership rights or goodwill whatsoever related to the Intellectual Property, including with respect to any Intellectual Property used in connection with any trade names, trademarks or other intellectual property of the City, and shall assign to Concessionaire and execute, at Concessionaire's request, all such documents necessary to evidence that all rights to such Intellectual Property (including with respect to any used in connection with any trade names, trademarks, or other Intellectual Property of City) belong to, and are owned exclusively by, Concessionaire. In the event that the City breaches any covenant contained in this Section 3, then, in addition to Section 17.4 and 17.5, Concessionaire shall be allowed to seek injunctive relief.

3.5 Service and Sale of Alcohol in Festival Area. The right to sell or serve liquor, beer or wine in the Festival Area is subject to CONCESSIONAIRE or its Subcontractors securing the appropriate approvals or license(s), whichever is required, from the appropriate Local and State licensing authorities therefore and compliance with any and all terms and conditions connected therewith. The City makes no representation that such right or license may be granted. Evidence of such license shall be provided to the Executive Director at least thirty (30) calendar days prior to the Festival Date. All sale and service of liquor, beer or wine shall be solely for consumption in the Festival Area as designated by the licensing authority.

3.6 Other Required Permits. Notwithstanding the granting of a permit under this Agreement, Concessionaire shall obtain and comply with any other permits, licenses or approvals required by other City departments or any other governmental entity with authority over any aspect of the Festival or the use of City property. Concessionaire shall be solely responsible for paying in full and in a timely fashion any fees or charges charged by other City departments or any other governmental entity with authority over any aspect of the Festival or the use of City property.

3.7 For the purposes of, and subject to, this Agreement, Concessionaire shall assume possession and control of the Festival Site as of the date Load-In activities are authorized to start at the Festival Site subject to the City's rights to perform its services, to enforce this Agreement and the related permit, and to take such actions as required by law.

3.8 To the extent Concessionaire retains or authorizes Subcontractors to perform any of the concessionaire's obligations or to exercise any rights of CONCESSIONAIRE under this Agreement, CONCESSIONAIRE shall be solely responsible for assuring that the Subcontractor complies with this Agreement, as well as any and all City and any other governmental laws, rules, policies and requirements.

#### **4. OTHER EVENTS**

4.1 Competing Festivals. In any year that the Festival is held, the City shall not authorize any other person or entity to hold a multi-day, multi-stage music festival which is substantially similar to the Festival on any City Property ("**Competing Festival**"). This limitation does not include similar events or festivals held on private property, or events with Historical Priority.

#### **5. CONCESSIONAIRE'S RESPONSIBILITIES**

5.1 General. Concessionaire shall be responsible for organizing, producing and holding the Festivals and for the payment of all costs and expenses related thereto, except as specifically provided for in Section 6 of this Agreement.

5.2 Services. Any service or action which is to be performed or taken in connection with the Festival and which is not specifically designated the responsibility of the City under Section 6 of this Agreement shall be the responsibility of Concessionaire. Without limiting and in furtherance of the foregoing, Concessionaire shall be responsible, either directly or through its Subcontractors, vendors or agents, for providing the following services as they relate to or are caused by the Festival:

(a) Booking and coordination of all artists, coordinating and interfacing with artist's management;

- (b) Promotion, including radio, print, internet, social media, interviews and street teams;
- (c) Managing box office and ticket sales;
- (d) Production of the Festival including coordination of the stage, sound, lights, subcontractors, volunteers and stagehands;
- (e) Supervision and coordination of the vendor sales, including sales of food, beverages, art, merchandise and music;
- (f) Contracting with all suppliers, including those providing tents, fences, portable toilets, clean-up, waste management supplies and equipment, electrical supplies, catering, etc.;
- (g) Staff attended and free bicycle valet(s). Bicycle valet areas are to be identified on the Facilities and Stage Location Plan as depicted in **Exhibit A**;
- (h) Providing perimeter chain link fencing and such other fencing and barricades as reasonably required and as otherwise requested by the City, including as set forth below in Section 13 intended to protect natural and wildlife areas, subject to the approved Site Map, **Exhibit A**;
- (i) Development, design, and production of all creative work, including posters and flyers, sponsorship packages and other creative work;
- (j) Selling tickets, signage, advertisement, sponsorship rights, product rights and other marketing rights;
- (k) Management and control of all funds;
- (l) Load-in and load-out of the Festival Area;
- (m) Providing portable toilets, portable washroom trailers (for the VIP and general admission attendees), and hand washing units that are clean and free of waste with water and soap dispensers that are full of soap, in working condition, unclogged and draining properly, subject to the approved Water Plan, Section 10.7;
- (n) Providing garbage carts, cans, and recycling containers, and removing all such trash generated by the Festival, including the prompt removal of trash during the course of the Festival on each day of the Festival, subject to the approved Trash and Clean-Up Plan, Section 10.6;
- (o) Providing shuttle system to transport Festival attendees according to a route determined by the City and subject to the approved Traffic Plan, Section 10.1;
- (p) Protection of all City Property, and the repair and replacement of any and all damage to the site, including but not limited to turf, trees, brush, shrubs and flower beds, irrigation systems at the Festival Area;

(q) Providing such security, public safety, and crowd control, fire protection and emergency medical services for the Festival, including during Load-In Time and Load-Out Time, subject to the approved Safety Plan, Section 10.2, and Traffic Plan, Section 10.1;

(r) Providing an on-site “Command Center” to accommodate all Festival Activities and necessary communication and coordination with City staff, emergency services and any other services, and to accommodate safety and monitoring of all Festival Activities, subject to the safety plan, Section 10.2;

(s) Assisting City in engaging in such public outreach, as circumstances warrant, to address the impacts of the Festival which are of concern to surrounding property owners, tenants and residents;

(t) “Live” staffed 24-hour hotline to allow Concessionaire to respond to guest and resident issues, with a one-half (1/2) hour or less response time, during the Festival Dates. During Load-In and Load-Out Concessionaire shall provide a 24-hour hotline to respond to guest and resident issues with a one (1) hour or less response time.; and

(u) Providing such other services, including guest services, as Concessionaire shall deem desirable in conducting the Festival so long as the services support or directly relate to the Permitted Activities.

5.3 Costs and Expenses. Any cost or expense incurred in connection with the Festival and which is not specifically designated the responsibility of the City under Section 6.2 shall be the responsibility of and paid by Concessionaire, including but not limited to the following:

(a) Costs and expenses of performing Concessionaire’s services and other obligations;

(b) Costs and expenses associated with any medical services;

(c) Charges and fees imposed by the City as provided herein subject to the following:

(i) Each year the Festival is held, City shall provide Concessionaire a Two Hundred Thousand Dollars and Zero Cents (\$200,000.00) credit that will be applied to services provided by the City with the exception of Park Rangers and Golf Staff.

(ii) The City shall provide Concessionaire an invoice reflecting said credit and detailing all services provided by the City. Park Ranger and Denver Golf staff costs and any other costs in excess of said credit shall be due and payable within 7 days of the invoice date

(d) Charges and fees imposed by any other governmental entity or authority and Concessionaire shall pay such charges and fees as required thereby;

5.4 Reimbursement Obligations. From time to time, the parties may agree that the City will perform on behalf of Concessionaire certain of Concessionaire services (e.g. clean up).



Concessionaire shall pay and/or reimburse the City as mutually agreed upon, as applicable, for performing such services.

5.5 Acts and Activities. Concessionaire shall discuss and consult with and timely inform the Manager as to the acts, activities and events that are scheduled to occur at the Festivals. Concessionaire shall submit a schedule of such acts, activities and events to the Manager for comment no later than ninety (90) calendar days prior to the Festival Dates.

5.6 Utility Locate. Concessionaire shall conduct a Utility Locate, at its sole expense, prior to any ground disturbance in the Festival Area.

5.7 Electrical Service and Water Service.

(a) Concessionaire will have access to all utility systems (electrical and water) in the park where the Festival Site is located beginning on the first Load-In date, through the Festival, and until the last Load-Out date. The City will invoice Concessionaire for the utility costs with payment due 7 days from invoice date. At its own expense, Concessionaire shall arrange for any special utility connection to said systems.

(b) If Concessionaire determines it will need to provide some portion of the required electrical needs for the Festival through generators or other electrical connections provided by Concessionaire at its expense, Concessionaire shall obtain and pay for any permits, licenses, or approvals for the installation and operation of the generators and other electrical connections, which must be installed and operated in a manner so that they do not damage, or adversely impact or impede the public use of, the park or the streets, including excessive noise and fumes.

(c) Concessionaire hereby expressly waives any and all claims for compensation from the City and the Denver Water Board for any and all loss or damage sustained by reason of any defect, deficiency, failure or impairment of the water supply system, drainage system, or electrical system on, near or otherwise related to the Festival Site.

5.8 Duty of Care. While exercising the rights granted herein, Concessionaire shall use and occupy the Festival Site and the areas for Load-In and Load-Out in a reasonably safe and careful manner, follow all plans approved under Section 10, and shall comply with all Applicable Law. Concessionaire shall not knowingly do any act or fail to address or resolve any act during the Term of this Agreement that will in any way irreparably damage the Festival Site or any part of the surrounding park or other City-owned or private property, or cause personal injury to, or damage the property of, attendees of the Festival, citizens utilizing the surrounding park or other City-owned property, the owners of nearby private property, or City employees which CONCESSIONAIRE also fails to repair or fails to reimburse the City the cost for repairs.

5.9 Hazardous Materials. CONCESSIONAIRE acknowledges and agrees that City has informed CONCESSIONAIRE of the presence of hazardous materials in the soil in the Park and Golf Course. CONCESSIONAIRE shall notify City of its intent to perform any digging or disturbance or soil in any area of the Park or Golf Course prior to performing digging or disturbing of soil.

5.10 Compliance with Parks Rules and Park-related Laws. Except as expressly modified herein or as otherwise modified by written directive of the Manager, the prohibitions and restrictions for uses and activities in a City-owned park set forth in Article I of Chapter 39 of the Denver Revised Municipal Ordinance (“**DRMC**”) shall be applicable and must be complied with. Smoking within any enclosure, tent (even if not fully enclosed), kitchen or dining area, or any location where patrons may congregate while drinking or eating within the Event Site is a violation under Section 39-10(e), DRMC. Rules and laws against possession and consumption of marijuana, including but not limited to Section 38-175, DRMC and Park Use Rules 8A.0 shall also be enforced in the Festival area.

5.11 Park Equipment. CONCESSIONAIRE may utilize golf course carts at no cost to Concessionaire. City and CONCESSIONAIRE shall inspect the carts during the Pre-Festival and Post-Festival walkthroughs. CONCESSIONAIRE agrees to repair or replace golf carts damaged during its possession and use.

5.12 Community Involvement. CONCESSIONAIRE shall in good faith and with assistance from the City promote local non-profits and resident neighborhood organizations to volunteer to staff booths and concessions to allow those organizations to raise funds.

5.13 Community Hiring. CONCESSIONAIRE shall in good faith and with assistance from the City utilize City resources to hire from the local and regional community.

5.14 Local Acts and Businesses. CONCESSIONAIRE shall in good faith and with assistance from the City support and promote local acts and artists to participate in the Festival, as well as promote local businesses, restaurants and local non-profits.

5.15 Tickets to Neighborhood. CONCESSIONAIRE shall offer to the Overland neighborhood residents discounted tickets for attendance. CONCESSIONAIRE shall set the amount of the discount and/or the number of tickets to be discounted, but only after consultation with the City.

## **6. CITY RESPONSIBILITIES**

6.1 City Services. The City will be responsible, at its own expense, except where CONCESSIONAIRE is responsible for reimbursement to the City, for providing the following services with respect to the Festival ("**City Services**"):

- (a) Shut off irrigation system(s);
- (b) Advertise the Festival on Channel 8 and the City website; and
- (c) Provide maintenance staff and Park Rangers subject to Reimbursement of costs set forth in Section 5.4 on site during Load-In Time and Load-Out Time, Festival Times and Festival Dates.

6.2 Costs and Expenses. The City shall be responsible for the payment of the cost and expenses the City incurs in performing the City Services subject to Section 5.3.(c) above.

6.3 City Liaison. The City will appoint one or more liaisons ("**City Liaison**") to assist Concessionaire in its discussions and interactions with City officials and departments, including but

not limited to: (i) attending key meetings with City personnel and departments; (ii) assisting Concessionaire in obtaining City permits and licenses; (iii) troubleshooting prior to, during, and after the Festival; (iv) coordinating and supporting Load-In and Load-Out activities; (v) overseeing the provision of services required by Concessionaire; (vi) reviewing separate agreements with Subcontractors for the sale and service of Permitted Alcohol; (vii) attending walk-throughs and working on property condition reports with Concessionaire; (viii) providing billings for utility, labor and service reimbursements from Concessionaire; and (ix) supporting and directing Concessionaire in the implementation and enforcement of the approved Plans.

6.4 Noise Ordinance. The City will continue to enforce its ordinances related to noise control and permitted noise levels within the Festival Area and the surrounding neighborhoods consistent with conducting the Festival and similar events during the Term of this Agreement. Specifically, Sections 36-1 through 36-10, D.R.M.C. shall remain in effect as enforced by the Department of Environmental Health, including any violations and penalties.

6.5 Permits and Licenses. The Parks and Recreation agrees that during the term of this Agreement, it will act in good faith to assist Concessionaire in obtaining permits and licenses necessary for Concessionaire to take full advantage of its rights under this Agreement, upon application and qualification by Concessionaire. Parks and Recreation will require in its golf course concessionaire agreement that the Golf Concessionaire timely file any required modification of the licensed premises timely obtain local and State approvals for the reduction in size of the existing liquor licenses to accommodate the requirements imposed upon CONCESSIONAIRE and its Subcontractors under the Festival Agreement. .

6.6 Limitation on Sponsorships. Concessionaire agrees (unless otherwise approved by the Manager), that with respect to the Festival, it shall not permit sponsorship, advertising, promotional products and marketing materials in the Festival Area for the sale or promotion of any of the following (i) firearms; (ii) fireworks; (iii) pornography; (iv) tobacco; and (v) marijuana.

## **7. TERM; TERMINATION; CANCELLATION**

7.1. Term. The term of this Agreement will commence on the Effective Date and shall terminate on December 31, 2022 (the "**Term**"), unless sooner terminated in accordance with the terms of this Agreement, including without limitation those provisions set forth in Section 17 herein. The parties may extend the Agreement for up to 2 additional years as described in Section 2.2(b). Unless otherwise terminated and subject to fulfillment of all obligations, the Parties intend that CONCESSIONAIRE hold the Festivals in the years 2018, 2019, 2020, 2021, and 2022. If the time needed to complete performance of any provisions of this Agreement extends beyond the Term specified above (including, but not limited to, any payment of Fees, the Damage Deposit, and inspections under Section 8 of this Agreement and any provisions that expressly survive the expiration or termination of this Agreement), this Agreement shall remain in full force and effect but only as to such provisions.

7.2. Mutual Termination. This Agreement may be terminated at any time upon the written mutual agreement of Concessionaire and the Manager.

7.3. Termination by the Parties. The Agreement may be unilaterally terminated, for cause, by either Party with thirty (30) calendar days prior written notice thereof; provided that the terminating party is not in uncured breach or default as specified in Section 17 of this Agreement. A termination shall

be deemed “for cause” when it is based on a breach or default as specified in Section 17 which has not been cured or resolved to the reasonable satisfaction of the non-defaulting Party within the time periods specified in Section 17. If a Festival is in progress when such termination occurs, Concessionaire shall be responsible for complying with all requirements and schedules specified in this Agreement for properly concluding the Festival.

7.4. Concessionaire may cancel the Festival in any year by providing written notice by no later than two (2) weeks prior to the first Load-In date. If Concessionaire cancels the Festival one hundred eighty (180) days or more prior to the first Load-In date, then the City shall refund all Parks and Recreation fees and deposits, less any amounts necessarily expended by the City in preparation for the Festival. This refund shall not apply to any fees incurred by Concessionaire in order to obtain any other needed city permits or licenses, such as liquor license application fees. If Concessionaire cancels the Festival less than one hundred eighty (180) days prior to the first Load-In date, the City shall be entitled to payment in the amount of \$50,000.00.

7.5. Modification and/or Temporary Suspension Not Termination. Concessionaire may modify the Festival Dates with the consent of the Manager pursuant to Section 2.2(a) and Section 2.8 herein, or elect to a Temporary Suspension of the Festival Dates pursuant to Section 2.2(b) and Section 2.8 herein. Such modification or Temporary Suspension shall not be considered termination under this Section 7 or default under Section 18.

7.6. Unforeseen Circumstances. If Overland Park or the Festival Area included herein are damaged from any cause beyond the control and without the fault or negligence of the City including, but not limited to, acts of God, fires, floods, droughts, epidemics, quarantine restrictions, strikes, failure of public utilities or unusually severe weather, prevents occupancy and use, or either, as granted in this Agreement, the City and Concessionaire are each hereby released from any damage so caused to the other party thereby. Likewise, if any of the said unforeseeable causes prevents the occupancy and use on the date or dates herein named, Concessionaire shall be allowed to reschedule the Festival at Concessionaire’s sole discretion subject to all the terms, covenants, and conditions herein and approval of the new dates with the Manager. Should Concessionaire elect not to reschedule the Festival in accordance with this Section 7.6, the City will refund to Concessionaire all sums paid hereunder except such portions thereof as shall have been necessarily expended or committed and Concessionaire shall determine in its sole discretion the appropriate amount to refund, if any, to holders of paid admissions affected by the action.

## **8. FEES AND DAMAGE DEPOSIT**

8.1 Fee for Festival Permit. Concessionaire will pay in each year of the Festival the following fees:

(a) Two Hundred Thousand Dollars and No Cents (\$200,000.00) for use of Overland Park, due on or before March 1<sup>st</sup> of the Festival year, payable to Denver Golf Enterprise;

(b) Two Dollars and No Cents (\$2.00) per one-day ticket sold, and Six Dollars and No Cents (\$6.00) per-three day ticket sold (including discounted tickets), due within seven (7) days after the last day of the Festival, payable to Denver Golf Enterprise, neither of which shall be assessed on Complimentary Tickets);

(c) Ninety Thousand Dollars and No Cents (\$90,000.00) landscape allocation to be utilized for landscaping, maintenance or other improvements to Overland Golf Course, due on or before March 1<sup>st</sup> of the Festival year, payable to Denver Golf Enterprise;

(d) Twenty-Five Thousand Dollars and No Cents (\$25,000.00) contribution toward discount golf play at other City golf courses while Overland Course is closed, due on or before March 1<sup>st</sup> of the Festival year, payable to Denver Golf Enterprise;

(e) Eight Thousand Dollars and No Cents (\$8,000.00) allocation for use of the "AquaGolf" for Festival parking; and

(f) As set forth in Section 9.2, CONCESSIONAIRE shall collect the Facilities Development Admissions Tax of 10% and pay such tax directly to the Manager of Finance. In the event the City repeals the Facilities Development Admissions Tax, or amends such tax so that it no longer would be collected for the Festival, then CONCESSIONAIRE agrees to pay an amount of 10% of all ticket sales to the Golf Course Enterprise or its successor in interest.

(g) Any reimbursement to which CONCESSIONAIRE is entitled shall be invoiced by CONCESSIONAIRE to the City, and due within seven (7) days after City approval, shall be payable to CONCESSIONAIRE. City may issue multiple invoices to the extent multiple City departments may issue its own invoice.

8.2 Complimentary Tickets. CONCESSIONAIRE shall have the right to issue complimentary tickets in its sole discretion for the Festival, through the Term of this Agreement; provided however, that for the Festival no more than (i) three thousand (3,000) tickets; or (ii) that number of tickets equal to five percent (5%) of tickets sold in a prior year, whichever is greater, shall be considered complimentary tickets, with one hundred (100) Complimentary Tickets set aside for City Staff only. Any complimentary tickets not labeled as such on both portions of the ticket stub will be counted as "sold". Notwithstanding the foregoing limitation on the number of complimentary tickets for the Festival, CONCESSIONAIRE shall have the right during the week before the Friday of the Festival Dates (but no earlier than the first Load-In Date) to have one benefit or open performance for the enjoyment of the surrounding neighborhoods. The limitation regarding complimentary tickets for the Festival Dates set forth above shall not apply to attendees of this benefit or open performance. The number of Complimentary tickets distributed shall be reflected in CONCESSIONAIRE's ticket manifest provided to the City in accordance with Section 9.2 (although compensation or monetary obligations related to actual sale of tickets shall not apply to the Complimentary Tickets as set forth in this Agreement).

8.3 Contribution to Community Fund. For each year of the Festival, CONCESSIONAIRE agrees to contribute \$1.00 from each one-day ticket sold and \$2.00 from each three-day ticket sold for the Festival to a fund for contribution to a Community Fund for the purposes of benefiting, enhancing or improving Overland Park and the surrounding neighborhood. Said fund will either be managed by a newly established non-profit entity or via

the Denver Foundation or another existing non-profit entity. This contribution is not applicable to Complimentary Tickets.

8.4 Damage Deposit. For each year that a Festival is held, CONCESSIONAIRE agrees to pay no later than thirty (30) calendar days prior to the Load-In Time a damage deposit in the amount of Fifty Thousand Dollars and Zero Cents (\$50,000) ("**Damage Deposit**") to Denver Golf. CONCESSIONAIRE shall meet with the City Liaison, along with an external independent firm with relevant experience, selected by the City, on or prior to the first day of Load-In to perform a "Pre-Festival Walkthrough" to assess and inventory the condition of the Festival Area. The Parties shall document the Festival Area, including with the use of photography or videography, and shall agree upon the condition of such. On the last day of the Load-Out Time CONCESSIONAIRE shall meet with the City Liaison, along with an external independent firm, to perform a "Post-Festival Walkthrough" regarding clean-up and repair of the Festival Area. CONCESSIONAIRE agrees to timely address damages which arise from its use and occupancy of the Festival Area and staging and conducting of the Festival. Should CONCESSIONAIRE fail to address such damages, the City shall be entitled to make a claim for damages against the Damage Deposit, and if the City's damages exceed the amount of the Damage Deposit, the City shall not be limited by the Damage Deposit in its claim for actual damages. Any portion of the Damage Deposit not expended as set forth herein shall be refunded within 30 days of all damages being repaired. The City shall reconcile all damages and costs, and provide an accounting of such to CONCESSIONAIRE.

8.5 Procedure for Damage Assessment and Restoration. The City and CONCESSIONAIRE shall cooperate in good faith to select an external, independent firm to assess damage incurred, opine on the condition, and provide a recommendation for restoration of the Festival Area. If the Parties cannot reasonably agree on the firm within sixty (60) calendar days, then the City shall select the firm. CONCESSIONAIRE shall cover the cost of the assessment and recommendation. City shall then, based on the assessment and recommendation, determine those portions of the restoration work that will be performed by the City or CONCESSIONAIRE. At the City's request, CONCESSIONAIRE shall have the option to purchase the materials required for restoration subject to City approval, and the City perform the work. The estimated cost of the restoration work, provided by the external firm, shall be advanced from CONCESSIONAIRE to the City within seven (7) business days after the estimate is received. Once the work is completed and the City has accepted the work in writing, the parties shall reconcile the costs of the work and determine whether additional funds are required for excess costs beyond the amount of the Damage Deposit referenced in Section 8.4 herein, which shall be covered by CONCESSIONAIRE, or whether CONCESSIONAIRE is entitled to a refund. CONCESSIONAIRE shall obtain and maintain insurance sufficient to cover property damage; and shall obtain and maintain a bond in an amount sufficient to cover property damage, both consistent with Section 14 and Section 15, below.

8.6 No Additional Fees. Except as specifically provided for in this Agreement, the City shall not charge CONCESSIONAIRE additional fees, other than uniformly applied, standard permit and licensing fees required in connection with the Festival.

## **9. REVENUES, TAXES, PERMITS AND LICENSES**

9.1 Revenues. After paying the City the amounts owed under Section 8, and all applicable taxes, and after satisfying all its other obligations hereunder, as between the City and CONCESSIONAIRE, CONCESSIONAIRE shall be entitled to all revenues from the Festival.

9.2 Facilities Development Admissions Tax.

(a) CONCESSIONAIRE acknowledges that the City levies a Facilities Development Admission Tax of 10%. The tax is to be computed on the admission price, and separately stated on the ticket. The tax is due within ten (10) days after each Festival, unless an exemption is granted by the Manager of the Department of Finance. CONCESSIONAIRE shall provide the City with an authenticated ticket manifest showing the number and types of tickets printed. CONCESSIONAIRE is also accountable for reporting unsold tickets and providing them for verification at the request of the City. CONCESSIONAIRE shall be responsible for ticket security; therefore, any tickets lost, stolen, or missing shall be considered as sold for purposes of computing Seat Tax. Complimentary tickets shall be properly documented and deducted separately by specific quantities from the report of tickets sold. Any complimentary tickets not labeled as such on both portions of the ticket stub will be counted as "sold" and Facilities Development Admission Tax will be collected.

(b) Prior to 11:59 p.m. of each Festival day, the CONCESSIONAIRE shall provide the Director with an authenticated ticket manifest showing the number and types of tickets printed, sold, unsold, lost, stolen, missing, and complimentary; the statement and manifest shall be certified by CONCESSIONAIRE to be correct. CONCESSIONAIRE shall also, upon request, provide the City with and any other documentation necessary to validate Seat Tax or any other tax due to the City. CONCESSIONAIRE shall provide the Director with the unsold tickets (commonly referred to as 'deadwood') for verification upon the Director's request. CONCESSIONAIRE shall be responsible for ticket security; therefore, any tickets that are lost, stolen, or missing shall be considered sold for purposes of computing gross receipts and FDA Taxes.

9.3 Taxes, Permits and Licenses. CONCESSIONAIRE agrees to pay promptly all taxes, excise, or license fees of whatever nature applicable to its occupancy and to take out all permits and licenses, Municipal, State, or Federal, required for its usage herein permitted, and further agrees to furnish the City, upon request, duplicate receipts or other satisfactory evidence showing the prompt payment of all taxes and fees above referred to and showing that all required permits and licenses are in effect. Appropriate records shall be maintained and made available per ordinance requirements. Any Subcontractor retained by CONCESSIONAIRE to provide service(s) during the Festival Dates shall be responsible for promptly paying all taxes, excise or licenses fees of whatever nature applicable to the service(s) provided and shall be responsible for obtaining all permits and licenses, Municipal, State, or Federal required for the service(s) provided.

## **10. PLANS PROVIDED BY CONCESSIONAIRE**

10.1 Traffic Control and Parking Plan.

(a) An initial draft of the Traffic Control and Parking Plan (the "**Traffic Control Plan**") shall be submitted each year in which the Festival is to be held by CONCESSIONAIRE to the Executive Director of Public Works and the Executive Director of Parks and Recreation for

review and approval no later than one hundred and fifty (150) calendar days prior to the first day of the applicable Festival Dates. The Directors shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such draft Traffic Control Plan to the Directors either: (i) an approval of such Traffic Control Plan, or (ii) if not approved, a list of all requested modifications to the Traffic Control Plan. If Public Works and Parks fails to provide such written approval or list of required modifications of the Traffic Control Plan to CONCESSIONAIRE by the above referenced date, such Traffic Control Plan shall be deemed approved as submitted. The Directors agree to review and respond in writing to all required submittals to modify the Traffic Control Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans, or the modified plans as submitted by CONCESSIONAIRE shall be deemed approved. The Traffic Control Plan may include provisions for supplying residential permits within surrounding residential areas and meter bagging through the Department of Public Works, provisions for off-site parking and shuttle service to the Festival Area from off-site parking locations.

(b) The approved Traffic Control and Parking Plan shall include accommodation of access for Regional Transportation District ("RTD") transportation; dedicated Uber, Lyft, taxicab, rideshare and shuttle drop-off and pick-up locations; bicycle sharing and parking access; and twenty-four (24) hour hotline for neighborhood information on parking impacts.

(c) The approved Traffic Control and Parking Plan shall include pedestrian routes to/from public transportation; Uber, Lyft and taxi drop off locations; ingress and egress to the Festival Site, all intended to draw crowds away from the surrounding neighborhood residential areas and toward the designated transportation, drop-off/pick-up and parking areas.

(d) The final Traffic Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

## 10.2 Security and Public Safety Plans.

(a) Fire Safety Protection Plan. An initial draft of the Fire Safety Protection Plan (the "**Fire Plan**") shall be submitted each year in which the Festival is to be held by CONCESSIONAIRE to the appropriate officials with Denver Fire Department, the Executive Director of Safety, and the Executive Director of Parks and Recreation no later than one hundred fifty (150) calendar days prior to the first day of the applicable Festival Dates. The Denver Fire Department and the Directors shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such draft Fire Plan to the Denver Fire Department and the Directors either: (i) an approval of such Fire Plan, or (ii) if not approved, a list of all requested modifications to the Fire Plan. If the Denver Fire Department and the Directors fail to provide such written approval or list of required modifications of the Fire Plan to CONCESSIONAIRE by the above referenced date, such Fire Plan shall be deemed approved as submitted. The Denver Fire Department and the Directors agree to review and respond in writing to all required submittals to modify the Fire Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans, or the modified plans as submitted by CONCESSIONAIRE shall be deemed approved. At minimum, the Fire Plan shall identify, in detail, all measures CONCESSIONAIRE shall take to comply with the directions and requirements of the Denver Fire Department and Applicable Law, including the



provision of safe exits from the Festival Site, fire lanes to the Festival Site, and fire safety for the Festival Site. The final Fire Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

(b) **Security Safety Protection Plan.** An initial draft of the Security Safety Protection Plan (the "**Security Plan**") shall be submitted each year in which the Festival is to be held by CONCESSIONAIRE to the Denver Police Department, the Executive Director of Safety, and the Executive Director of Parks and Recreation for review and approval no later than one hundred fifty (150) calendar days prior to the first day of the applicable Festival Dates. The Denver Police Department and the Directors shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such draft Security Plan to the Denver Police Department and the Directors either: (i) an approval of such Security Plan, or (ii) if not approved, a list of all requested modifications to the Security Plan. If the Denver Police Department and the Directors fail to provide such written approval or list of required modifications of the Security Plan to CONCESSIONAIRE by the above referenced date, such Security Plan shall be deemed approved as submitted. The Denver Police Department and the Directors agree to review and respond in writing to all required submittals to modify the Security Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans, or the modified plans as submitted by CONCESSIONAIRE shall be deemed approved. At minimum, the Security Plan shall identify, in detail, all measures CONCESSIONAIRE shall take to comply with the directions and requirements of the Denver Police Department and Applicable Law, including the provision of adequate security, crowd control, security screening including wand and reasonable searches, and traffic control services during the Festival. It shall also include a "Command Center" an on-site "Command Center" to accommodate all Festival Activities and necessary communication and coordination with City staff, emergency services and any other services, and to accommodate safety and monitoring of all Festival Activities. It shall also identify, in detail, the measures CONCESSIONAIRE will undertake to provide security for the buildings on the Aqua Golf site between the hours of 7:00 pm to 6:00 am on each Festival day, secure the Festival Site during the curfew period. The final Security Safety Protection Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

10.3 **Emergency Services Plan.** An initial draft of the Emergency Services Plan (the "**Emergency Services Plan**") shall be submitted each year in which the Festival is to be held by CONCESSIONAIRE to the Denver Fire Department, Executive Director of Safety, Denver Health, and the Executive Director of Parks and Recreation no later than one hundred fifty (150) calendar days prior to the first day of the applicable Festival Dates. The Denver Fire Department, Denver Health and the Directors shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such draft Emergency Services Plan to the Denver Fire Department, Denver Health and the Directors either: (i) an approval of such Emergency Services Plan, or (ii) if not approved, a list of all requested modifications to the Emergency Services Plan. If the Denver Fire Department, Denver Health and the Directors fail to provide such written approval or list of required modifications of the Emergency Services Plan to CONCESSIONAIRE by the above referenced date, such Emergency Services Plan shall be deemed approved as submitted. The Denver Fire Department, Denver Health and the Directors agree to review and respond in writing to all required submittals to modify the Emergency Services Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans, or the modified plans as submitted by CONCESSIONAIRE shall be deemed

approved. At minimum, the Emergency Plan shall identify, in detail, all measures CONCESSIONAIRE shall take to comply with the directions and requirements of the Denver Fire Department and Applicable Law, including plans for the provision of ambulance service, EMT services, and on-site first aid and medical stations during the Festival. The final Emergency Services Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

10.4 Load-In/Load-Out Plan. An initial draft of the Load-In/Load-Out Plan shall be submitted each year in which the Festival is to be held by CONCESSIONAIRE to the Executive Director of the Department of Parks and Recreation and the Executive Director of Department of Public Works for review and approval by the respective Directors of both departments (“Directors”) no later than one hundred fifty (150) calendar days prior to the first day of the applicable Festival Dates. The Directors shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such draft Load-In/Load-Out Plan to the Directors either: (i) an approval of such Load-In/Load-Out Plan, or (ii) if not approved, a list of all requested modifications to the Load-In/Load-Out Plan. If the Directors fail to provide such written approval or list of required modifications of the Load-In/Load-Out Plan to CONCESSIONAIRE by the above referenced date, such Load-In/Load-Out Plan shall be deemed approved as submitted. The Directors agree to review and respond in writing to all required submittals to modify the Load-In/Load-Out Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans, or the modified plans as submitted by CONCESSIONAIRE shall be deemed approved. At minimum, the Load-In/Load-Out Plan shall identify, in detail, all measures CONCESSIONAIRE shall take to comply with the directions and requirements of the Directors and Applicable Law, including provisions for a phased Load-In and Load-Out procedure, dates and locations for the Load-In and Load-Out including access and staging for Load-In and Load-Out, installation plans and schedule for the Festival Site, temporary fencing, heavy equipment requirements, storage of any materials and equipment, parking of hauling vehicles, proposed staking and other earth-disturbing activity in the Festival Site, measures to be taken to protect turf, irrigation systems, sidewalks and other amenities, and measures to be taken to minimize, mitigate, and repair damage to the Festival Site and other City-owned property caused by the Load-In and Load-Out. The Load-In/Load-Out Plan shall also include a listing of lighting equipment, chairs, tables, food and beverage preparation facilities and other fixtures and equipment that CONCESSIONAIRE has or will obtain to operate the Festival at the Festival Site. The final Load-In/Load-Out Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

10.5 Signage Plan and Standards. An initial draft of the Signage Plan and Standards (the "Signage Plan") shall be submitted each year in which the Festival is to be held by CONCESSIONAIRE to the Department of Parks and Recreation for review and approval no later than ninety (90) calendar days prior to the first day of the applicable Festival Dates. Department of Parks and Recreation shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such draft Signage Plan to the Department of Parks and Recreation either: (i) an approval of such Signage Plan, or (ii) if not approved, a list of all requested modifications to the Signage Plan. If the Department of Parks and Recreation fails to provide such written approval or list of required modifications of the Signage Plan to CONCESSIONAIRE by the above referenced date, such Signage Plan shall be deemed approved as submitted. The Department of Parks and Recreation agrees to review and respond in writing to all

required submittals to modify the Signage Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans, or the modified plans as submitted by CONCESSIONAIRE shall be deemed approved. At minimum, the Signage Plan shall identify, in detail, all measures CONCESSIONAIRE shall take to comply with the directions and requirements of the Director of Parks and Recreation and Applicable Law, including provisions for the standards and process for the installation and removal of all temporary signs and advertising and compliance with the terms and conditions of Section 16. The final Signage Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

10.6 Trash, Site Clean-Up, and Recycling Plan. An initial draft of the Trash, Site Clean-Up, and Recycling Plan (the “**Trash and Site Clean-Up Plan**”) shall be submitted each year in which the Festival is to be held by CONCESSIONAIRE to the Department of Parks and Recreation for review and approval no later than one hundred fifty (150) calendar days prior to the first day of the applicable Festival Dates. The Department of Parks and Recreation shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such draft Trash Plan to the Department of Parks and Recreation either: (i) an approval of such Trash Plan, or (ii) if not approved, a list of all requested modifications to the Trash Plan. If the Directors fail to provide such written approval or list of required modifications of the Trash and Site Clean-Up Plan to CONCESSIONAIRE by the above referenced date, such Trash and Site Clean-Up Plan shall be deemed approved as submitted. The Department of Parks and Recreation agrees to review and respond in writing to all required submittals to modify the Trash and Site Clean-Up Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans. At minimum, the Trash and Site Clean-Up Plan shall identify, in detail, all measures CONCESSIONAIRE shall take to comply with the directions and requirements of the Department of Parks and Recreation and Applicable Law, including provisions for prompt litter pick-up, site cleaning, and trash removal on a daily basis and as needed during Load-In, Load-Out, and during the course of the Festival on each day of the Festival; and for promoting waste materials recycling whenever possible. It shall also identify the process and commitments as to post-Festival clean-up, including but not limited to trash and debris disposal, building material removal, stain cleaning, and water and other liquid disposal from the Festival Site. Additionally, the plan shall include neighborhood clean-up procedures, the area of which is depicted in the **Exhibit A** site map. CONCESSIONAIRE shall inspect and clean-up the neighborhood area first after the initial arrival of attendees (no later than 1:00p.m. on a Festival day, or as conditions require); second when attendees arrive just prior to the “evening headliners”; and finally during overnight hours. The final Trash and Site Clean-Up Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

10.7 Sanitation and Drinking Water Plan. An initial draft of the Drinking Water Plan (the “**Water Plan**”) shall be submitted each year in which the Festival is to be held by CONCESSIONAIRE to the Department of Parks and Recreation and the Denver Water Departments (“Departments”) no later than one hundred fifty (150) calendar days prior to the first day of the

applicable Festival Dates. The Departments shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such draft Water Plan to the Departments either: (i) an approval of such Water Plan, or if not approved, (ii) a list of all requested modifications to the Water Plan. If the Departments fail to provide such written approval or list of required modifications of the Water Plan to CONCESSIONAIRE by the above referenced date, such Water Plan shall be deemed approved as submitted. The Departments agree to review and respond in writing to all required submittals to modify the Water Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans, or the modified plans as submitted by CONCESSIONAIRE shall be deemed approved. At minimum, the Water Supply Plan shall identify, in detail, all measures CONCESSIONAIRE shall take to comply with the directions and requirements of the Manager and Applicable Law, including provisions for a water supply to serve the Event, and portable toilets, portable washroom trailers (for the VIP and general admission attendees), and hand washing units that are clean and free of waste with water and soap dispensers that are full of soap, in working condition, unclogged and draining properly. The final Water Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

10.8 Facilities and Stage Location Plan. An initial draft of the Facilities Plan (the “**Facilities Plan**”) shall be submitted each year in which the Festival is to be held by CONCESSIONAIRE to the Department of Parks and Recreation no later than one hundred fifty (150) calendar days prior to the first day of the applicable Festival Dates. The Department of Parks and Recreation shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such draft Facilities Plan to the Department either: (i) an approval of such Facilities Plan, or if not approved, (ii) a list of all requested modifications to the Facilities Plan. If the Department of Parks and Recreation fails to provide such written approval or list of required modifications of the Facilities Plan to CONCESSIONAIRE by the above referenced date, such Facilities Plan shall be deemed approved as submitted. The Department of Parks and Recreation agree to review and respond in writing to all required submittals to modify the Facilities Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans, or the modified plans as submitted by CONCESSIONAIRE shall be deemed approved. At minimum, the Facilities Plan shall identify, in detail, the type, location and extent of Facilities to be installed or deployed at the Festival Site, including stage location, with reasonable input from the City and to the extent practical, the stage location shall be in such a position to minimize noise affecting the surrounding residents. Additionally, the Facilities Plan shall include a Site Map, which the City and CONCESSIONAIRE shall cooperate in creating, installation location of all facilities and infrastructure including tents, booths and other structures, and fencing. The final Facilities and Stage Location Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

10.9 Facilities Protection Plan. An initial draft of the Facilities Protection Plan (the “**Facilities Protection Plan**”) shall be submitted each year in which the Festival is to be held by

CONCESSIONAIRE to the Department of Parks and Recreation no later than one hundred fifty (150) calendar days prior to the first day of the applicable Festival Dates. The Department of Parks and Recreation shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such draft Facilities Plan to the Department either: (i) an approval of such Facilities Plan, or if not approved, (ii) a list of all requested modifications to the Facilities Plan. If the Department of Parks and Recreation fails to provide such written approval or list of required modifications of the Facilities Plan to CONCESSIONAIRE by the above referenced date, such Facilities Plan shall be deemed approved as submitted. The Department of Parks and Recreation agree to review and respond in writing to all required submittals to modify the Facilities Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans, or the modified plans as submitted by CONCESSIONAIRE shall be deemed approved. At minimum, the Facilities Protection Plan shall set forth all measures CONCESSIONAIRE shall take to comply with the directions and requirement of the Department of Parks and Recreation and Applicable Law with respect to protecting, managing and restoring the Festival Site and the surrounding park and other City-owned land with respect to the installation, operation and removal of the Facilities. These measures shall include but not be limited to active protection, maintenance, repair and replacement of landscaping, sod, irrigation system, and other City-owned property which may be impacted by and during the Event; employment of appropriate erosion control and storm water management practices; the installation, operation and removal of portable toilets and assurance of public access and use in accordance with the Americans with Disabilities Act; and maintenance of a clean, safe and sanitary conditions in and around the Facilities; and such other actions as are needed, based on the type of Event and its duration, to manage Facilities in order to protect and preserve the park so that it is restored to its original or better condition. The final Facilities Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

10.10 Environmental Protection Plan. An initial draft of the Environmental Protection Plan (the "**Environmental Plan**") shall be submitted each year in which the Festival is to be held by CONCESSIONAIRE to the Executive Director of Parks and Recreation for review and approval no later than one hundred fifty (150) calendar days prior to the first day of the applicable Festival Dates. The Director shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such draft Environmental Plan to the Director either: (i) an approval of such Environmental Plan, or (ii) if not approved, a list of all requested modifications to the Environmental Plan. If the Director fails to provide such written approval or list of required modifications of the Environmental Plan to CONCESSIONAIRE by the above referenced date, such Environmental Plan shall be deemed approved as submitted. The Director agrees to review and respond in writing to all required submittals to modify the Environmental Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans, or the modified plans as submitted by CONCESSIONAIRE shall be deemed approved. At minimum, the Environmental Plan shall identify, in detail, all measures CONCESSIONAIRE shall take to minimize impact on natural areas and wildlife in and around the Festival Site. The final Environmental Protection Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

10.11 Emergency Evacuation Plan. An initial draft of the Emergency Evacuation Plan (the "**Evacuation Plan**") shall be submitted each year in which the Festival is to be held by

CONCESSIONAIRE to the Executive Director of Parks and Recreation for review and approval no later than one hundred fifty (150) calendar days prior to the first day of the applicable Festival Dates. The Director shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such draft Evacuation Plan to the Director either: (i) an approval of such Evacuation Plan, or (ii) if not approved, a list of all requested modifications to the Evacuation Plan. If the Director fails to provide such written approval or list of required modifications of the Evacuation Plan to CONCESSIONAIRE by the above referenced date, such Evacuation Plan shall be deemed approved as submitted. The Director agrees to review and respond in writing to all required submittals to modify the Evacuation Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans, or the modified plans as submitted by CONCESSIONAIRE shall be deemed approved. At minimum, the Evacuation Plan shall identify in detail, all measures CONCESSIONAIRE shall take to proactively identify potential hazards and evacuate the Festival Site in case of an emergency such as a severe storm. The final Emergency Evacuation Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

#### 10.12 Compliance with Park Policy, Rules and Regulations.

(a) CONCESSIONAIRE agrees to comply with the “Parks Use Rules and Regulations”; “General Parks and Recreation Information”; the “Public Events Policy Rules and Regulations”; and the “Overland Park Supplemental Rules and Regulations” attached hereto as **Exhibit B** and incorporated by reference herein, except to the extent such rules and regulations have been modified by the plans referenced in Sections 10 and 11 herein and any other terms and provisions of this Agreement. The Executive Director hereby waives and suspends all rules and regulations and policies relating to Overland Park which are inconsistent with the terms and provisions of this Agreement or supplemental rules. The parties expressly acknowledge and agree that in the case of any conflicts between any rules, regulations or policies regarding the use and occupancy of Overland Park, including those referenced in **Exhibit B** and the terms and provisions of this Agreement, the terms and provisions of this Agreement shall control.

10.13 Cooperation. The City and CONCESSIONAIRE agree to cooperate in good faith in the timely review and submission of all modifications relating to the plans required by this Section 10.

### 11. **CONCESSIONS**

11.1 Concession Plan. For each year in which the Festival is to be held by CONCESSIONAIRE, and subject to restrictions and conditions of this Agreement, CONCESSIONAIRE shall submit to the Denver Department of Parks and Recreation and the Denver Department of Environmental Health for review and approval its Concession Plan (the “**Concession Plan**”) no later than one hundred fifty (150) calendar days prior to the first day of the applicable Festival Dates. The Departments shall review and provide to CONCESSIONAIRE in writing no later than thirty (30) calendar days after CONCESSIONAIRE's submittal of such Concession Plan to the Departments either: (i) an approval of such Concession Plan, or if not approved, (ii) a list of all

requested modifications to the Concession Plan. If the Departments fail to provide such written approval or list of required modifications of the Concession Plan to CONCESSIONAIRE by the above referenced date, such Concession Plan shall be deemed approved as submitted. The Departments agree to review and respond in writing to all required submittals to modify the Concession Plan by CONCESSIONAIRE within thirty (30) calendar days of CONCESSIONAIRE's submission of such modified plans, or the modified plans as submitted by CONCESSIONAIRE shall be deemed approved. At minimum, the Concession Plan shall identify, in detail, all measures CONCESSIONAIRE shall take to comply with the directions and requirements of the Departments and Applicable Law, including provisions listing the types of Concession services to be provided and the control and licensing requirements for the Concession and the Concession Site. Notwithstanding, CONCESSIONAIRE's full right and entitlement to conduct concessions at the Festival is subject to the agreement and approval of the City. The final Concession Plan must be approved by the City no less than sixty (60) calendar days prior to the first Load-In date.

11.2 Cooperation. The City and CONCESSIONAIRE agree to cooperate in good faith in the timely review, submission and modification of the Concession Plan.

## **12. RECORDS**

12.1 Examination of Records. CONCESSIONAIRE agrees that any duly authorized representative of the City, including the City Auditor or his representative, during the Term of this Agreement and for three (3) years after the termination of this Agreement, shall, during reasonable business hours have access to and the right to examine any directly pertinent books, documents, papers and records of CONCESSIONAIRE limited to records related to CONCESSIONAIRE's incoming revenue shared with the City and taxes, such documents including but not limited to ticket manifests for each days' ticket sales. CONCESSIONAIRE waives any claim of confidentiality that it may have in connection therewith subject to Section 12.2 herein and CONCESSIONAIRE agrees to make such items available within the City.

12.2 Parties' Obligations with Respect to Confidential Information. The parties agree that issues governing the use and disclosure of Confidential Information, as defined below, provided to or made available to the City by CONCESSIONAIRE will be governed by the following provisions:

(a) Definition of Confidential Information. As used in this Agreement, the term "**Confidential Information**" means all information, of any nature and in any form, regardless of when given, that (i) is disclosed or provided by or through CONCESSIONAIRE to the City pursuant to performance of this Agreement; and (ii) has been clearly marked or indicated in writing as being confidential by CONCESSIONAIRE. Information falling within this definition shall be treated by the City as the confidential proprietary information of CONCESSIONAIRE pursuant to the provisions of the Colorado Open Records Act and under any rule of court. Information not so marked or indicated will not be so considered.

(b) Use of Confidential Information. Except as expressly provided in this Agreement or as required by court order, or as otherwise mandated by the Colorado Open Records Act, or other Applicable Law, the City will not disclose Confidential Information to anyone without the prior written consent of CONCESSIONAIRE. The City will not use, or permit others to use, Confidential Information for any purpose other than actions incidental to the performance and enforcement of this Agreement

between the City and CONCESSIONAIRE, including but not limited to auditing of records of CONCESSIONAIRE by the City Auditor and/or other representatives of the City. The City will take all reasonable measures to avoid disclosure, dissemination or unauthorized use of Confidential Information, including, at a minimum, those measures that it takes to protect its own Confidential Information of a similar nature.

(c) Open Records Requests. The Parties recognize that the mere marking of a document as "Confidential" does not render it conclusively confidential under the Colorado Open Records Act. Consequently, in the event that the City is served with an Open Records Request or subpoena from any third party requesting all or part of any Confidential Information as defined herein, the City shall give timely notice to CONCESSIONAIRE of such request or subpoena within the time parameters of the Colorado Open Records Act or of any applicable court rule. CONCESSIONAIRE acknowledges that the City may be required to tender Confidential Information to a judge pursuant to a properly executed court order, and the City shall give timely notice to CONCESSIONAIRE of such tender so that CONCESSIONAIRE may intervene to prevent the disclosure of Confidential Information. In that event, CONCESSIONAIRE agrees upon receipt of actual notice from the City of such Open Records Request or subpoena to immediately undertake to defend such Confidential Information from disclosure pursuant to the Colorado Open Records Act or applicable court rule and shall defend, save and hold harmless and indemnify the City and its agents and employees with respect to such issues, including attorneys' fees and cost to defend; except that CONCESSIONAIRE will not be obligated to reimburse the City for the costs or legal work of the City Attorney's Office.

### **13. PROPERTY AND CONDITION OF PROPERTY**

13.1 Right of Removal Upon Termination. CONCESSIONAIRE and its Subcontractors shall promptly remove from Overland Park, all goods, wares, supplies, merchandise, equipment, furnishings, facilities, and other personal property which are not owned by the City and which relate to CONCESSIONAIRE's use and occupancy of Overland Park for the Festival ("**Personal Property**"). The City shall not be liable for any damage to or loss of Personal Property, except as to such claims, loss or damages that arise out of the willful misconduct of the City or its agents, employees or officials. If said removal causes any damage to Overland Park, CONCESSIONAIRE shall be responsible for the prompt repair of the same in good and workmanlike manner. CONCESSIONAIRE fails to remove any Personal Property upon the expiration of the Load-Out Time, the City may, at its option, keep and retain said Personal Property or dispose of the same and retain any proceeds therefrom, and the City shall be entitled to recover from CONCESSIONAIRE any costs of the City in removing the same and in restoring Overland Park more than the actual proceeds, if any, received by the City from the disposition thereof.

13.2 Condition of Festival Area at Completion of Load-Out; Restoration. CONCESSIONAIRECONCESSIONAIRECONCESSIONAIRE shall not cause that portion of Overland Park to sustain such extent of damage to prevent restoration or to render restoration impossible.

13.3 City Not Liable for Property in Festival Area. The City assumes no responsibility whatsoever for any Personal Property placed in the Festival Site, the surrounding park or other City-owned property, or any Load-In or Load-Out areas, and CONCESSIONAIRE expressly releases and discharges the City from any and all liabilities for any loss, injury or damages to Personal Property



that may be sustained by reason of the occupancy or use of any portion of the Festival Site, the surrounding park or other City-owned property, or Load-In and Load-Out areas under this Agreement. All security personnel or other watchmen or other protective service for securing such Personal Property shall be the sole responsibility of CONCESSIONAIRE or its employees, volunteers or Subcontractors. In the receipt, handling, care or custody of Personal Property shipped or otherwise delivered to the Event Site, the surrounding park or other City-owned property, or any Load-In and Load-Out areas, the City shall act solely for the accommodation of CONCESSIONAIRE, and not as a bailment, and the City and its elected and appointed officials, agents, or employees shall not be liable for any loss, damage, or injury to such Personal Property, except that said officials, agents, or employees (but not the City itself) may be personally liable for any deliberate and malicious acts of damage or injury to Personal Property including theft.

13.4 Mats and Other Equipment; Modifications. CONCESSIONAIRE agrees to utilize any high-quality specially designed equipment, including mats and other protective equipment, throughout the Festival Area to minimize damage to the grass and turf. CONCESSIONAIRE shall perform, and is responsible for all costs related to, any modifications to the irrigation system (i.e. isolation valves, etc.) that are determined to be needed to minimize turf damage. Any such modifications must be approved by Denver Golf in advance. Denver Golf will determine whether Denver Golf staff will do the work or allow CONCESSIONAIRE to contract the work to an outside contractor. CONCESSIONAIRE is responsible for performing and paying the cost of any tree trimming necessary in order to ensure the safety of the festival workers and attendees. CONCESSIONAIRE shall obtain approval from City prior to performing any such tree trimming.

13.5 Wildlife and Natural Areas Impact. CONCESSIONAIRE shall cooperate with the City to identify and fence off areas designated as natural areas, wildlife habitats, golf greens, tee boxes, and other areas containing vegetation and trees intended to remain undamaged and free from physical disturbance from Festival activities.

## **14. INDEMNIFICATION**

14.1 Indemnification. CONCESSIONAIRE shall defend, release, indemnify, and save and hold harmless the City against any and all damage to property or injury to or death of any person or persons, including property and employees or agents of City, and shall defend, release, indemnify and save and hold harmless City from any and all claims, demands, suits, actions, liabilities, causes of action or legal or equitable proceedings of any kind or nature (collectively, "**Losses**"), including workers' compensation claims and claims related to copyright or trademark rights, of or by anyone whomsoever, in any way resulting from or arising out of CONCESSIONAIRE's operation, use or occupancy of Overland Park, its activities or its performance in connection with this Agreement, including acts or omissions of CONCESSIONAIRE or its officers, employees, representatives, suppliers, invitees, licensees, subconsultants, subcontractors, volunteers and agents. This indemnity shall be interpreted in the broadest possible manner to indemnify the City from such Claims, either passive or active, irrespective of fault, including the City's concurrent negligence, whether active or passive, except for Claims determined by the trier of fact to be due to the sole negligence or willful misconduct of the City and its appointed and elected officials, agents and employees. Insurance coverage requirements specified in

this Agreement shall in no way lessen or limit the liability of CONCESSIONAIRE under the terms of this indemnification obligation.

14.2 Defense Costs. CONCESSIONAIRE's duty to defend and indemnify the City shall arise at the time written notice of the Claims is first provided to the City regardless of whether an action has been filed in court on the Claims. CONCESSIONAIRE's duty to defend and indemnify the City shall arise even if the City is the only party sued and/or it is alleged that the City's negligence or willful misconduct was the sole cause of the alleged damages. CONCESSIONAIRE will defend any and all Claims which may be brought or threatened against the City and will pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred by the City in defending and investigating such Claims or seeking to enforce this indemnity and defense obligation if CONCESSIONAIRE should fail to defend as required herein. Such payments on behalf of the City shall be in addition to any other legal remedies available to City and shall not be considered the City's exclusive remedy. CONCESSIONAIRE will not be obligated to reimburse the City for the costs or legal work of the City Attorney's Office. In the event the City desires the assistance of outside legal counsel, City will consult with CONCESSIONAIRE on the hourly rates or other basis for compensation with CONCESSIONAIRE, but the selection of outside legal counsel will be in the City Attorneys' sole determination

14.3 Copyright Indemnification. CONCESSIONAIRE warrants that all copyrighted material to be performed, displayed or otherwise made public in association with the Festival has been duly licensed and authorized by the copyright owners or their representatives and agrees to indemnify and hold the City harmless from any and all claims, losses, or expenses incurred with regard thereto.

14.4 Survival. The following provisions shall expressly survive termination of this Agreement: Sections 14.1. 14.2 and 14.3.

## **15. INSURANCE; BONDS; FINANCIAL ASSURANCES**

15.1 General Conditions. CONCESSIONAIRE shall secure, at least thirty (30) days in advance of the Festival, the following insurance covering all operations, activities, and services contemplated under this Agreement and provide the City with a written schedule of the intended insurance coverages required by this Agreement which shall include their effective starting dates (which must be satisfactory to Denver Risk Management) and the duration of the coverages which shall be no shorter than thirty (30) days prior to the start of Load-In and thirty (30) days subsequent to the end of Load-Out during the Term of this Agreement applicable to the Festival dates and any extensions thereof. CONCESSIONAIRE shall keep the required insurance coverage in force at all times during the effective dates of the Festival and including Load-In and Load-Out, as approved by Denver Risk Management. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-VIII" or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the required policies is to be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the City offices identified in Section 19.8 of this Agreement. Such notice shall reference the City contract number listed on the City's signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-

payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, CONCESSIONAIRE shall provide written notice of cancellation, non-renewal and any reduction in coverage to the City offices identified in Section 19.8 by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by CONCESSIONAIRE. CONCESSIONAIRE shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of CONCESSIONAIRE. CONCESSIONAIRE shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

15.2 Proof of Insurance. CONCESSIONAIRE shall provide a copy of this Agreement to its insurance agent or broker. CONCESSIONAIRE may not commence any work or operations at the Festival Site or any Load-In and Load-Out areas prior to placement of coverage as required under this Agreement. CONCESSIONAIRE certifies that a current certificate of insurance, in compliance with this Section 15, shall be provided to the City in final form no later than thirty (30) days prior to the start of the Load. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of CONCESSIONAIRE's breach of this Agreement or of any of the City's rights or remedies under this Agreement. Denver Risk Management may require additional proof of insurance, including but not limited to policies and endorsements.

15.3 Additional Insureds. For Commercial General Liability, Business Auto Liability, and Liquor Legal Liability, the insurer(s) for CONCESSIONAIRE or CONCESSIONAIRE's Subcontractor(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insureds.

15.4 Waiver of Subrogation. For all coverages required under this Agreement, CONCESSIONAIRE's insurer shall waive subrogation rights against the City.

15.5 Subcontractors. All Subcontractors shall be subject to all of the requirements herein and shall procure and maintain the appropriate levels of coverages required by CONCESSIONAIRE. CONCESSIONAIRE shall include all such Subcontractors as additional insureds under its policies (with the exception of Workers' Compensation) or shall ensure that all such Subcontractors maintain the required coverages. CONCESSIONAIRE agrees to provide proof of insurance for all such Subcontractors upon request by the City.

15.6 Workers' Compensation/Employer's Liability Insurance. CONCESSIONAIRE shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. CONCESSIONAIRE expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of CONCESSIONAIRE's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of

this Agreement, and that any such rejections previously effected, have been revoked as of the date CONCESSIONAIRE executes this Agreement.

15.7 Commercial General Liability. CONCESSIONAIRE shall maintain a Commercial General Liability insurance policy with limits of \$3,000,000 for each occurrence, \$3,000,000 for each personal and advertising injury claim, \$3,000,000 products and completed operations aggregate, and \$3,000,000 policy aggregate.

15.8 Business Automobile Liability. CONCESSIONAIRE shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used under this Agreement.

15.9 Liquor Legal Liability. CONCESSIONAIRE shall maintain, or shall cause the Subcontractors who sell or serve Permitted Alcohol to maintain, Liquor Legal Liability coverage with limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

15.10 Additional Provisions.

15.10.1 For Commercial General Liability, the policy must provide the following:

- (i) That this Agreement is an Insured Contract under the policy;
- (ii) Defense costs are outside the limits of liability;
- (iii) A severability of interests or separation of insureds provision (no insured vs. insured exclusion);
- (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City; and
- (v) Any exclusion for sexual abuse, molestation or misconduct has been removed or deleted.

15.10.2 For claims-made coverage, the retroactive date must be on or before the contract date or the first date when any goods or services were provided, whichever is earlier.

15.10.3 CONCESSIONAIRE shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At CONCESSIONAIRE's own expense, where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, CONCESSIONAIRE shall procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

15.11 Survival. The provisions of this Section 15 shall survive the expiration or termination of this Agreement.

15.12 Bonding/Irrevocable Letter of Credit. Without limiting or waiving any other responsibilities or obligations under this Agreement, CONCESSIONAIRE shall provide a Payment and Performance bond(s), an irrevocable letter of credit, or other performance guarantees in the amount of One Million Five Hundred Thousand Dollars and Zero Cents (\$1,500,000.00) (the

“Surety”). Bonds must be substantially in the form specified in **Exhibit C** which is attached hereto and incorporated herein by reference. The form of letters of credit or other financial assurance must be acceptable to the City Attorney. CONCESSIONAIRE shall deliver to the Director, no later than 90 days prior to the first day of Load-in, a fully executed Surety which shall provide effective and sufficient financial assurance for the full and faithful performance of CONCESSIONAIRE’s duties and obligations under Section 8.5 of this Agreement along with appropriate powers of attorney. The Surety must be issued from a surety corporation or bank authorized to do business in the State of Colorado and which is acceptable to the City. Such Surety shall be payable to the City upon demand for CONCESSIONAIRE’s failure to perform as required under Section 8.5 of this Agreement. The Surety shall also assure the restoration, repair or replacement of any damage or condition not in compliance with this Agreement or the original condition of the Festival Area prior to the Festival. The Surety shall remain in effect or be promptly renewed or replaced by another Surety reasonably acceptable to the City during the Term of the Agreement and during the Festival and for a ninety (90) day period after the last day of Load-Out Time, or expiration or termination of this Agreement or any Extension Amendment and any warranty period or other period prescribed by law. Satisfactory proof of renewal or acceptable replacement must be provided to the Director at least sixty (60) days prior to the date of expiration or termination of the Surety. CONCESSIONAIRE’s obligations set out in this section shall survive the expiration or termination of this Agreement and failure to obtain or maintain said Surety shall be grounds for immediate termination.

## **16. BROADCASTING, ADVERTISING AND PROMOTIONAL RIGHTS; NAME, LOGOS AND PHOTOGRAPHIC RIGHTS**

16.1 Broadcasting Rights. CONCESSIONAIRE shall have all Broadcast rights related to the Festival. The City shall not have any right to Broadcast or exhibit, or authorize the Broadcast or exhibition, of the Festival through its City-owned media, whether before, during or after the Festival Date, without the express written permission of CONCESSIONAIRE.

16.2 Advertising, Sponsorship and Promotional Rights. CONCESSIONAIRE retains all rights to sell or lease advertising and sponsorships within the Festival Area and Overland Park, or related to the Festival and to determine the nature of any incidental display of products, logos, etc. CONCESSIONAIRE further reserves the right to take photographs, and audio and video recordings during the Festival in the Festival Area or within Overland Park at its option to use for customary advertising and publicity.

16.3 Photographic Rights Retained by the City. Notwithstanding any provision to the contrary, CONCESSIONAIRE grants to the City an irrevocable, non-exclusive license for the City to make its own photographs, audio and video recordings in the Festival Area during the Festival Dates for the City's sole use for the City's customary advertising and publicity and other non-commercial City uses each of which must be approved in advance by CONCESSIONAIRE in its sole discretion; provided, however, that the City shall not photograph or record any artist performance and shall be solely responsible for obtaining any releases from any persons featured in such photos or recordings, including any related costs. Further, City shall be responsible for any damages to CONCESSIONAIRE and its affiliates relating to any claims arising out of or relating to such photographs and recordings made by the City hereunder.

## 17. DEFAULT AND REMEDIES

17.1 Default by CONCESSIONAIRE. The following shall constitute a "Default" by CONCESSIONAIRE under this Agreement:

(a) A failure to timely make any payments due hereunder (except to the extent that CONCESSIONAIRE in good faith disputes such payment and has a reasonable basis for such dispute), including for Fees and Damage Deposits, and such failure is not cured within five (5) business days after written notice thereof;

(b) A failure to secure or maintain insurance as required under Section 15 if not cured within five (5) business days of written notice prior to Load-In date for the Festival (otherwise not curable);

(c) Any assignment of the CONCESSIONAIRE's rights and obligations under this Agreement in violation of Section 19.5 (which is not curable);

(d) If CONCESSIONAIRE makes a general assignment for the benefit of creditors, or files for bankruptcy, reorganization or similar proceedings;

(e) A bankruptcy, reorganization or similar proceeding is filed against CONCESSIONAIRE and is not vacated or discharged within forty-five (45) days after such filing;

(f) A material breach or default by CONCESSIONAIRE of any term or condition under this Agreement (other than those specified in these sub-Sections 17(a) through (h)) if such breach or default is not cured by CONCESSIONAIRE within ten (10) business days after written notice thereof or such other cure period specified in the City's written notice to CONCESSIONAIRE; provided, however, that if a curable breach cannot be reasonably cured during such ten (10) day period but CONCESSIONAIRE commences in good faith and with due diligence an effort to cure within said ten (10) day period, then the time for cure may be extended for such period of time mutually agreed by the Parties but, if there is no mutual agreement, no longer than twenty (20) business days after the original notice of default; provided, further, that a material breach or default cannot be cured by the cure period being extended beyond the end of the Event Dates and Load-Out;

(g) A receiver or trustee is appointed for all or any part of a party's assets; or

(h) CONCESSIONAIRE or any of its officers are convicted, plead *nolo contendere*, enter into a formal agreement in which they admit guilt, enter a plea of guilty, or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature, in connection with CONCESSIONAIRE's business.

17.2 Any cure rights set forth in this Section 17 shall not excuse the obligation of CONCESSIONAIRE to take timely and proper action to prevent, stop, mitigate, or alleviate any recent or impending damage to the Festival Site, City-owned property or neighboring property or any existing or imminent threat or danger to public health and safety.

17.3 City's Election to Terminate for CONCESSIONAIRE Default. Any election on the part of the City to terminate this Agreement by reason of a Default by CONCESSIONAIRE must be in writing, properly executed by the City and served upon CONCESSIONAIRE. No termination of this Agreement

on account of Default by CONCESSIONAIRE shall be or become effective by operation of law or otherwise, unless and until the City shall have given such notice to CONCESSIONAIRE.

17.4 Default by City. At no time shall the City be deemed to be in breach or default under this Agreement for the material breach or default in the performance or fulfillment of any material term, covenant or condition herein, unless and until CONCESSIONAIRE shall have given to the City notice in writing, specifying such default and the City shall have failed to cure the default so specified within thirty (30) days following said written notice (or, if City is diligently pursuing a cure, such greater time as is allowed by CONCESSIONAIRE in its sole discretion). If the City fails to timely deliver the site to CONCESSIONAIRE, then City shall have twenty-four (24) hours to cure before it is deemed to be in default.

17.5 Specific Performance; Anticipatory Repudiation. Notwithstanding anything in this Agreement to the contrary, the parties reserve the right to seek specific performance of this Agreement and either party hereto shall have the right to enjoin any anticipatory repudiation of this Agreement by the other.

17.6 Damages. Both parties expressly acknowledge that any damages sought for breach or default of this Agreement are limited to actual damages. Both parties expressly waive and agree not to seek any consequential, incidental and punitive damages arising from breach or default under this Agreement.

17.7 Cumulative Rights and Remedies. Unless otherwise provided, the rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any other remedy.

17.8 When Rights and Remedies Not Waived. In no event shall any performance by either party hereunder constitute or be construed to be a waiver by such party of any breach of term, covenant, or condition or any default which may then exist on the part of the other party, and the rendering of such performance when any such breach or default shall exist shall not impair or prejudice any right or remedy available to the non-breaching party with respect to such breach or default; and no assent, express or implied, to any breach of any one or more terms, covenants, or conditions of the Agreement shall be construed as a waiver of any succeeding or other breach.

## **18. COMPLIANCE WITH APPLICABLE LAWS, AND RESTRICTIONS ON USE**

18.1 General Compliance with Laws. The Parties shall comply with all Applicable Law in connection with this Agreement. CONCESSIONAIRE shall use its reasonable efforts to ensure that the Festival attendees and its Subcontractors shall comply with all Applicable Law at the Festival and in the Festival Area. The City shall not be required to take any action which is inconsistent with its federal or state constitutional obligations or its obligations as a governmental entity.

18.2 No Endangerment of Public Safety. CONCESSIONAIRE shall take all reasonable actions necessary to protect the safety of Festival attendees, including those measures set forth in accordance with Sections 10.1, 10.2, 10.3 and 10.11.

18.3 No Discrimination in Employment. In connection with the performance of work under this Agreement, CONCESSIONAIRE agrees not to refuse to hire, discharge, promote, or

demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability; and CONCESSIONAIRE further agrees to insert the foregoing provision in all subcontracts hereunder.

18.4 Colorado Governmental Immunity Act. The Parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101, *et seq.*, C.R.S. and other law. All notice requirements provided by such laws shall be strictly complied with.

18.5 Ethics. The parties agree that no employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein. CONCESSIONAIRE further agrees not to hire, or contract for services with, any employee or officer of the City in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics or Denver City Charter provisions 1.2.9 and 1.2.12.

18.6 Liens and Encumbrances. CONCESSIONAIRE shall not permit any mechanic's or materialman's liens or any other liens or encumbrances to be imposed and remain for more than ninety (90) days upon the property of the City, or any part or parcel thereof, by reason of any work or labor performed or materials furnished by any person, partnership, association, company, corporation, or other entity to or for CONCESSIONAIRE, either pursuant to C.R.S. §38-26-107, as amended, or by other authority.

## **19. MISCELLANEOUS**

### **19.1 Legal Authority.**

(a) CONCESSIONAIRE assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

(b) The person or persons signing and executing this Agreement on behalf of CONCESSIONAIRE, do hereby warrant and guarantee that they have been fully authorized by CONCESSIONAIRE to execute this Agreement on behalf of CONCESSIONAIRE and to validly and legally bind CONCESSIONAIRE to all the terms, performances and provisions herein set forth.

(c) The City shall have the right, at its option, to either suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of either CONCESSIONAIRE or the person signing the Agreement to enter into this Agreement.

19.2 City Financial Obligations. It is understood and agreed that any payment or performance obligation of the City hereunder, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Agreement in each year in which the Agreement is in effect, encumbered for the purpose of the Agreement and paid into the Treasury of the City. CONCESSIONAIRE acknowledges that the (i) the City does not by this Agreement irrevocably pledge present cash reserves for payments in future



fiscal years, and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect financial obligation of the City.

19.3 No Third-Party Beneficiary. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and CONCESSIONAIRE, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person, including but not limited to Subcontractors, subconsultants and suppliers. It is the express intention of the City and CONCESSIONAIRE that any person or entity other than the City or CONCESSIONAIRE receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

19.4 No Agency or Partnership Relationship.

(a) Nothing in this Agreement is intended nor shall be deemed to create an agency, relationship, partnership or joint venture between CONCESSIONAIRE on the one hand, and the City on the other hand.

(b) Nothing in this Agreement is intended nor shall be deemed to grant to CONCESSIONAIRE any power, right or authority to bind or otherwise contractually obligate the City.

(c) Nothing in this Agreement is intended nor shall be deemed to grant to the City any power, right or authority to bind or otherwise contractually obligate CONCESSIONAIRE.

(d) No employee of CONCESSIONAIRE shall be deemed an employee of the City.

(e) No employee of the City shall be deemed an employee of CONCESSIONAIRE.

19.5 Assignment and Subcontracting. The City is not obligated or liable under this Agreement to any party other than CONCESSIONAIRE. CONCESSIONAIRE understands and agrees that it shall not assign or subcontract with respect to any of its material rights, benefits, obligations or duties as owner, organizer and promoter of the Festival under this Agreement except upon prior written consent and approval of the Executive Director which shall not be unreasonably withheld; provided, however, that CONCESSIONAIRE shall have the right to assign or subcontract this Agreement to an affiliate under the common control of CONCESSIONAIRE without such prior written consent and approval of the Manager. In the event any such assignment or subcontracting shall occur, such action shall not be construed to create any contractual relationship between the City and such assignee or Subcontractor, and CONCESSIONAIRE shall remain fully responsible to the City according to the terms of this Agreement. This Agreement and the parties anticipate that CONCESSIONAIRE may perform certain of its obligations hereunder, such as Concessions, through a duly licensed Subcontractor(s). The City acknowledges that CONCESSIONAIRE may, in its sole discretion,

enter into separate agreements with Subcontractors to manage CONCESSIONAIRE's rights with respect to alcohol sales under Section 3.2(c) of this Agreement and such separate agreements shall not be considered assignment or subcontracting with respect to material rights under this Section 19.5.

19.6 Further Assurances. Each party shall execute and deliver such other reasonable documents, instruments and agreements, and take such actions as are reasonably necessary or desirable to effectuate the transactions contemplated herein or as required by Applicable Law.

19.7 Disputes; Venue and Governing Law. It is mutually agreed by and between the parties hereto, that should any dispute arise regarding this Agreement, and suit be deemed necessary by either party, that venue for such action shall lie in the District Court in and for the City and County of Denver, Colorado, and that any and all notices, pleadings and process may be served upon CONCESSIONAIRE by service of two copies of said notice, pleading or process to the address of CONCESSIONAIRE shown in this Agreement. Said service, as above set forth, shall be considered by the parties as valid personal service upon the party so served, and judgment may thereafter be taken if the party so served does not, within the time period prescribed by Colorado law or rule of civil procedure appear and plead or answer. Furthermore, each and every term, condition or covenant herein shall be construed and enforced pursuant to the laws of the State of Colorado and any applicable federal law, without regard to any statute or rule of law specifying a different choice of law, and pursuant to the Charter, Revised Municipal Code, Rules and Regulations and Executive Orders of the City.

19.8 Notices. All notices, demands or other communications required or permitted to be given under this Agreement shall be in writing and any and all such items shall be deemed to have been duly delivered upon (i) personal delivery; or (ii) as of the third business day after mailing by United States mail, certified, return receipt requested, postage prepaid, addressed as follows; or (iii) as of 12:00 Noon, local time of the recipient, on the immediately following business day after deposit with Federal Express or a similar overnight courier service that provides evidence of receipt, addressed as follows:

If to City, to: Mayor  
City and County of Denver  
City and County Building  
1437 Bannock Street, Room 350  
Denver, CO 80202

With a copy to: Executive Director of Parks and Recreation  
City and County of Denver  
201 W. Colfax Ave., Dept. 601  
Denver, CO 80202

City Attorney  
City and County of Denver  
City and County Building

1437 Bannock Street, Room 353  
Denver, CO 80202

If to CONCESSIONAIRE: Denver Festivals LLC  
381 Park Avenue South, 16th Floor  
New York, NY 10010  
Trey Rogers  
Lewis Roca Rothgerber Christie, LLP  
Suite 3000  
1200 17th Street  
Denver, CO 80202

19.9 Expenses. Each party hereto shall bear its own costs and expenses with respect to the preparation, negotiating, execution and delivery of this Agreement.

19.10 Construction of this Agreement.

(a) Paragraph Headings. The captions and headings set forth herein are for convenience of reference only, and shall not be construed so as to define or limit the terms and provisions hereof.

(b) Time. The parties agree that in the performance of the terms, conditions and requirements of this Agreement, time is of the essence.

(c) Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of CONCESSIONAIRE as are permitted to succeed to CONCESSIONAIRE's right upon and subject to the terms hereof.

(d) Singular and Plural. Whenever the context shall so require, the singular shall include the plural and the plural shall include the singular.

(e) Reasonableness of Consent or Approval. Unless otherwise specifically provided to the contrary, all decisions, approvals or consents shall be made in the reasonable discretion of the party making the same. Further, unless a specific time frame is provided herein, any approval or consent shall not be unreasonably withheld or delayed. Whenever under this Agreement "reasonableness" is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards as well as business and economic considerations.

(f) Severability. It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is held by a court of law (following all legal rights of appeal or the expiration of time therefore) to be illegal or in conflict with any law of the State of Colorado or the City Charter or ordinance, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid; provided, however, if the invalidated term was a critical or material consideration of either party in entering this Agreement, the parties shall work together, in good faith, to come up with an

amendment to this Agreement that substantially satisfies the previously intended consideration while being in compliance with any Applicable Law.

19.11 Agreement as Complete Integration. Amendments. This Agreement is intended as the complete integration of all understandings between the parties pertaining to the subject matter of this Agreement. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion or any other amendment hereto shall have any force or effect unless embodied in a written amendatory or other Agreement properly executed by the parties. This Agreement and any amendments shall be binding upon the parties, their successors and assigns.

19.12 Final Approval. This Agreement is expressly subject to and shall not be or become effective or binding on the City until approval by the City Council and fully executed by all signatures of the City and County of Denver.

19.13 Counterparts. This Agreement shall be executed in two (2) counterparts, each of which shall be deemed to be an original but all of which shall together constitute one and the same instrument. A facsimile signature of any party shall be considered to have the same binding effect as an original signature.

19.14 Electronic Signatures and Electronic Records. CONCESSIONAIRE consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

**[REMAINDER OF THE PAGE IS DELIBERATELY LEFT BLANK.**

**SIGNATURE BLOCKS BEGIN ON THE NEXT PAGE.]**

Contract Control Number: PARKS-201735508-00

**Contractor Name:** Denver Festivals LLC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at  
Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By\_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of  
Denver

By\_\_\_\_\_

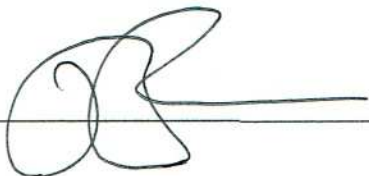
By\_\_\_\_\_

By\_\_\_\_\_



**Contract Control Number:** PARKS-201735508-00

**Contractor Name:** Denver Festivals, LLC

By: \_\_\_\_\_

Name: Rick FARMAN  
(please print)

Title: President  
(please print)

**ATTEST: [if required]**

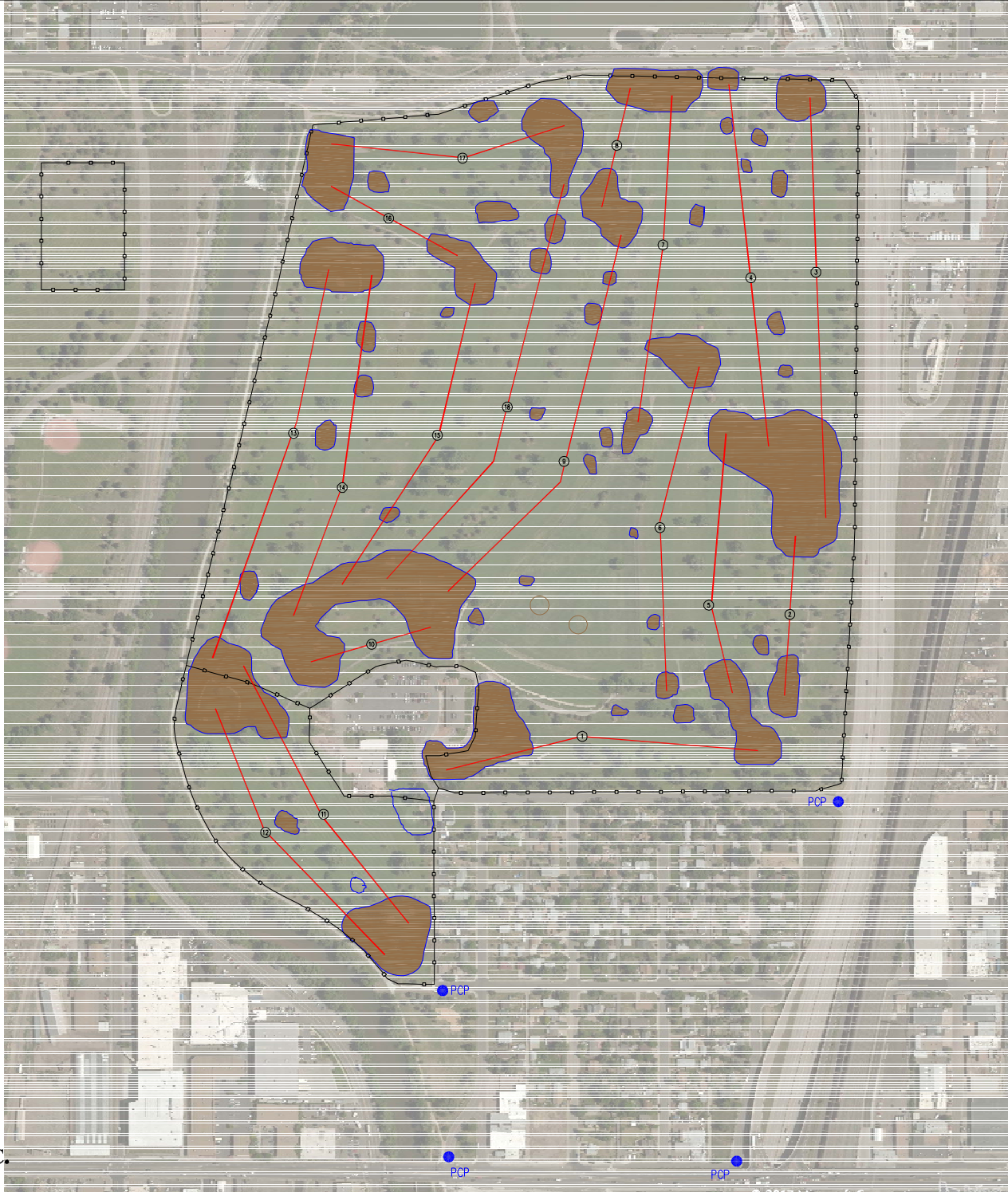
By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)



# **Exhibit A**






# **Exhibit B**

**DENVER DEPARTMENT OF PARKS AND RECREATION**  
**PARK USE RULES AND REGULATIONS**  
**AS ADOPTED 5-11-12 and AS AMENDED AND RESTATED 5-27-15**

These Park Use Rules and Regulations, as amended and restated, have been duly adopted effective this 27th day of May, 2015, in accordance with the rule-making requirements of section 39-2 of the Denver Revised Municipal Code and are in accordance with the authority of the Executive Director of the Denver Department of Parks and Recreation under section 2.4.4 of the Denver City Charter.

In accordance with section 39-2(e), D.R.M.C., copies of these Park Use Rules and Regulations, as amended and restated, were filed with the Denver Clerk and Recorder and the Denver City Attorney within seven (7) days of the effective date set out above, and a notice of the adoption of these Park Use Rules and Regulations was published in Denver Daily Journal on the 4 day of June, 2015. The notice included a statement that a copy of the Parks Use Rules and Regulations, as amended and restated, are on file with the Executive Director of Parks and Recreation and is available for public inspection.

APPROVED AND ADOPTED:



Lauri J. Dannemiller  
Executive Director of Parks and Recreation

APPROVED FOR LEGALITY:

D. Scott Martinez  
City Attorney for the City and County of Denver



Assistant City Attorney

**DENVER DEPARTMENT OF PARKS AND RECREATION  
PARK USE RULES AND REGULATIONS  
AS ADOPTED 5-11-12 and AS AMENDED AND RESTATED 5-27-15**

**CITY AND COUNTY OF DENVER  
DEPARTMENT OF PARKS AND RECREATION  
RULES & REGULATIONS**

**Governing Public Activities, Uses and Behavior  
in Parks, Parkways, Mountain Parks, Recreation Facilities, and other Public Facilities  
under the Auspices of the Denver Department of Parks and Recreation**

**Referred to herein as “Park Use Rules and Regulations”**

**DENVER DEPARTMENT OF PARKS AND RECREATION  
PARK USE RULES AND REGULATIONS  
AS ADOPTED 5-11-12 and AS AMENDED AND RESTATED 5-27-15**

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PARK USE RULES AND REGULATIONS  
AS ADOPTED 5-11-12 and AS AMENDED AND RESTATED 5-27-15**

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**DENVER DEPARTMENT OF PARKS AND RECREATION**  
**PARK USE RULES AND REGULATIONS**  
**AS ADOPTED 5-11-12 and AS AMENDED AND RESTATED 5-27-15**

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**PART I – GENERAL PROVISIONS**

**A. Purpose:** The implementation of rules and regulations establishing restrictions and prohibitions with respect to public activities and behavior in, and public use of, parks, parkways, mountain parks, recreation facilities, and other public facilities under the auspices of the Department of Parks and Recreation for the City and County of Denver. The rules and regulations set forth herein directly correlate with, and are enforced through, the provisions of Article I (In General) of Chapter 39 (Parks and Recreation) of the Denver Revised Municipal Code.

**B. Authority:**

**B.1.** Section 2.4.4(A) of the Denver City Charter (“**Charter**”) delegates to the Department of Parks and Recreation (“**DPR**”) the duty and power to manage, operate and control all facilities located within and without the boundaries of the City and County of Denver and owned by the City for park and recreational purposes. This authority includes the power to adopt rules and regulations regarding the management, operation and control of these facilities. DPR has exercised this authority by adopting and subsequently amending the rules and regulations set forth herein (“**Park Use Rules and Regulations**”).

**B.2.** The enforcement of the rules and regulations authorized under Charter Section 2.4.4(A) is achieved through ordinances adopted by the Denver City Council and approved by the Mayor, as provided in Charter Section 2.4.4(A). This Charter authority is recognized in Section 39-1(a) of the Denver Revised Municipal Code (“**DRMC**”), and enforcement is provided for in Article I of Chapter 39, DRMC (“**Article I Ordinances**”).

**B.3.** Section 39-1(b), DRMC, makes it unlawful for any person to violate any rules and regulations adopted by the DPR Executive Director (as defined in Part II) and as provided in the Article I Ordinances and authorizes enforcement through penalties imposed by the courts.

**B.4.** Additional authority is granted in Section 39-1(c), DRMC, for DPR to adopt rules and regulations for the use of administrative citations in accordance with Article XII of Chapter 2, DRMC. DPR has exercised this authority by adopting a separate set of rules and regulations for administrative citations and establishing an administrative system for, among other things, issuing citations, collecting civil fines, and conducting appeals. This administrative system is set forth in the Administrative Citations Rules & Regulations adopted 5-11-12 and as subsequently amended.

**B.5.** Nothing in these Park Use Rules & Regulations are intended to be a limitation or restriction on the duties or powers vested in DPR and the DPR Executive Director under 2.4.4(A) of the Charter or other provisions of the Charter or granted to DPR and the DPR Executive Director under Section 39-1(b) and (c), DRMC.

**C. Application:** The Park Use Rules & Regulations set forth herein are applicable to members of the public who seek to enter in or on a Park Facility (as defined in Part II), engage in activities in or on a Park Facility, or make some use of a Park Facility. The Park Use Rules and Regulations shall not apply to the following: 1) DPR or other City staff performing their duties in or at a Park Facility; 2) police, fire and emergency personnel performing their duties in or at a Park Facility; 3) contracted persons performing services, installing equipment, or making improvements in or at a Park Facility as specified in a purchase order or contract with the City or the City’s designated representatives; and 4) other persons authorized by the DPR Executive Director to enter, engage in activities or make use of the Park Facility so long as the entry, activity or use is in compliance with the authorization given.

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**D.**     Effect on other lawful requirements: Nothing in these Park Use Rules & Regulations is intended to reduce, limit, waive, override or supersede legal requirements for compliance by members of the public with other City ordinances and rules and regulations, including but not limited to compliance with rules and regulations adopted, any licenses or permits issued, or other authorizations or approvals required by other City departments and agencies such as Public Works, Safety (Police and Fire), Community Planning and Development, Denver Water, Arts & Venues, Excise and Licenses, Finance, and Environmental Health, or by federal and state law. This includes other DPR policies and/or rules and regulations.

**E.**     Enforcement: These Park Use Rules & Regulations are subject to enforcement as authorized under Sub-sections 39-1(b) and 39-1(c), DRMC. Beyond tickets issued by the police and fines imposed by the courts, enforcement of these Park Use Rules & Regulations may be achieved through administrative means set forth in these Park Use Rules & Regulations and the Administrative Citations Rules & Regulations adopted 5-11-12 and as subsequently amended. It shall be a violation of these Park Use Rules & Regulations for a member of the public not to comply with any prohibitions, disallowances, restrictions, requirements and mandates specified in these Park Use Rules & Regulations.

**F.**     Interpretation: If at any time the application or meaning of the Article I Ordinances is uncertain or in need of further explanation during enforcement, these Park Use Rules & Regulations shall be referred to, and applied, for any interpretation or clarification of the Article I Ordinances. The Park Use Rules & Regulations are to be interpreted and applied in accordance with their specifications and definitions and in accordance with the common and ordinary meaning of words and phrases not otherwise specified or defined in the Park Use Rules & Regulations.

**G.**     Supersession: These Park Use Rules & Regulations are intended, and shall be construed, to supersede and replace the 1993 Rules and Regulations.



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**PART II – GENERAL DEFINITIONS and ACRONYMS**

- A. *Article I Ordinances* means Article I of Chapter 39 of the Denver Revised Municipal Code.
- B. *City* means the City and County of Denver.
- C. *DPR* means the City's Department of Parks and Recreation.
- D. *DPR Executive Director* means the appointed Executive Director for the City's Department of Parks and Recreation or the Executive Director's authorized representative(s).
- E. *DRMC* means the Denver Revised Municipal Code.
- F. *Park Facility* means any or all of the following: a Park, Parkway, Mountain Park, Recreational Facility, or other publicly used facility operated under the auspices of DPR. Each of these capitalized terms is defined, in turn, so:

**F.1.** *Park and Recreational Facility* jointly include, but are not be limited to: recreation centers, swimming pools, golf courses and clubhouses, playing and athletic fields, ballparks, basketball courts, tennis courts, natural areas, open space, historic parks, skate parks, bicycle courses, trails and paths, pavilions and shelters, picnic areas, playgrounds, fountains, waterways and water bodies and historic structures located in Parks, park roads, and parking lots associated with Parks and Recreational Facilities, as well the Denver Zoological Gardens and the Denver Botanic Gardens and their associated facilities, all operated under the auspices of DPR or through cooperative agreements with the City. This definition includes a sidewalk and/or tree lawn located in right of way immediately adjacent to a Park or Recreational Facility.

**F.2.** *Parkway* means one of the designated parkways listed in Section 49-16, DRMC. The application of these Park Use Rules and Regulations are limited to the landscaped areas and DPR-operated trails and facilities located within a Parkway. A Parkway Median, as defined in 1.3 below, is also part of a Parkway.

**F.3.** *Mountain Parks* means all parks and open space owned by the City and operated under the auspices of DPR in the Colorado counties of Arapahoe, Clear Creek, Douglas, and Jefferson and their associated recreational facilities.

- G. *Park Use Rules & Regulations* means those rules and regulations as set forth herein.

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**PART III – PARK USE RULES & REGULATIONS**

The provisions of the Park Use Rules & Regulations are organized and sequenced below in the same manner and order as their corresponding enforcement ordinances appear in the Article I Ordinances, with the corresponding DRMC numbers for the enforcement ordinances noted in parenthesis. The rules are numbered for the purpose of reference and citation. Capitalized common words are as defined in the applicable rule or as defined in Part II of these Park Use Rules and Regulations.

**1.0 Curfews and closures.** (39-3) The prohibition or restriction of uses and activities in Park Facilities and entry upon Park Facilities during curfew or closures, as specified herein, are important to the safe and harmonious public use of Park Facilities and for the protection and preservation of Park Facilities.

1.1 City Curfew: Curfew for Parks and Recreational Facilities and for Parkway Medians (see 1.3 below) located within the boundaries of the City is between the hours of 11:00 p.m. and 5:00 a.m. (“**City Curfew**”). Entry into a Park, Recreational Facility or Parkway Median during City Curfew is not allowed. Exceptions to this rule:

1.1.1 Regional Trails (as defined in 16.1.3 below), commuter trails and Park Roads (as defined in 17.1.2 below) which remain open during City Curfew, but only to the extent of allowing access through Parks or Recreational Facilities. Parking, stopping or traveling off the established Regional Trails, commuter trail or Park Roads within Parks or Recreational Facilities is not allowed during City Curfew.

1.1.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing the events or specific activities during City Curfew, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

1.2 Mountain Parks Curfew: Curfew for Mountain Parks is between one hour after sunset and one hour before sunrise (“**Mountain Parks Curfew**”). Entry into a Mountain Park during Mountain Parks Curfew is not allowed. Exceptions to this rule:

1.2.1 The amphitheater and related facilities, including parking lots, at Red Rocks operated by the Arts & Venues Division of the Denver Department of General Services when such Red Rocks facilities are open to the public during Mountain Parks Curfew.

1.2.2 The Chief Hosa Campground for all persons holding a valid camping permit.

1.2.3 Paved commuter trails, lawful driveways, Park Roads (as defined in 17.1.2 below) and county or state roads located in Mountain Parks which remain open during Mountain Parks Curfew, but only to the extent of allowing access through the Mountain Parks. Parking, stopping or travelling off established paved commuter trails, lawful driveways, Park Roads or county or state roads is not allowed in a Mountain Park during Mountain Parks Curfew.

1.2.4 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing the events or specific activities during Mountain Parks Curfew, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.



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1.3 Parkway Medians: City Curfew is applicable for wide median areas for certain parkways in the City (“**Parkway Medians**”), as are the exceptions provided in 1.1.1 and 1.1.2 above. A Parkway Median is a landscaped area in a parkway separating the street into each direction of travel wide-enough to function like a linear park for recreational uses such as walking dogs and jogging. The Parkway Medians do not include any paved streets or curbs or any paved sidewalks. The Parkway Medians subject to City Curfew are:

- 1.3.1 City Park Esplanade – Colfax to East 17<sup>th</sup> Avenue
- 1.3.2 Clermont Street Parkway – East 3<sup>rd</sup> Avenue to East 6<sup>th</sup> Avenue
- 1.3.3 Downing Street Parkway – East 3<sup>rd</sup> Avenue to East Bayaud Avenue;
- 1.3.4 Forest Street Parkway – East 17<sup>th</sup> Avenue to Montview Boulevard
- 1.3.5 Hale Parkway – East 12<sup>th</sup> Avenue at Colorado Boulevard to East 8<sup>th</sup> Avenue at Grape Street
- 1.3.6 Monaco Street Parkway – East 38<sup>th</sup> Avenue to East 6<sup>th</sup> Avenue
- 1.3.7 South Marion Street Parkway – East Bayaud at Downing Street to East Virginia Avenue
- 1.3.8 Richtofen Place Parkway – Monaco Parkway to Oneida Street
- 1.3.9 Speer Boulevard Parkway – South Platte River to Downing Street at 1<sup>st</sup> Avenue (excluding the paved surface of the Cherry Creek Trail)
- 1.3.10 Downing Street from East 3<sup>rd</sup> Avenue to Speer Boulevard; Franklin Street from 1<sup>st</sup> Avenue to 4<sup>th</sup> Avenue; Gilpin Street from 1<sup>st</sup> to 4<sup>th</sup> Avenue; and High Street from 1<sup>st</sup> Avenue to 4<sup>th</sup> Avenue.
- 1.3.11 East 6<sup>th</sup> Avenue Parkway – Colorado Boulevard to Uintah Way
- 1.3.12 East 7<sup>th</sup> Avenue Parkway – Williams Street to Colorado Boulevard
- 1.3.13 East 17<sup>th</sup> Avenue Parkway – Colorado Boulevard to Monaco Parkway.
- 1.3.14 Any other Parkway Medians located in a parkway subsequently designated under section 49-16, DRMC.

1.4 Closures: A Park Facility or a Parkway Median, or a part thereof, is deemed closed to the public when closure is declared or ordered by the DPR Executive Director. Closure occurs when the area subject to the DPR Executive Director’s closure declaration or order (“**Closed Area**”) is posted for “no entry,” “no trespass” or similar posting alerting the public to stay out of the Closed Area, or barricades are installed blocking common passages into the Closed Area and entry into the Closed Area can only be achieved by crossing or bypassing the postings or barricades. Notification of closure may also be directly provided by verbal communication or written notice from DPR staff or an Enforcement Official (as defined in 20.4 below) to members of the public who are in or attempting to enter the Closed Area.

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Collectively, these forms of notification are referred to herein as “**Closure Notice**”. Failure to comply with a Closure Notice is prohibited. Exception to this rule:

1.4.1 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing the events or specific activities in a Closed Area, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

**2.0 Restriction or prohibition of uses and activities.** (39-4) The DPR Executive Director may issue Directives, as specified below, that certain uses and activities in Park Facilities, or certain parts of such Park Facilities, are restricted or prohibited, as specified herein.

2.1 Directive: The DPR Executive Director may from time to time, when circumstances warrant as determined by the DPR Executive Director, issue a written order or declaration restricting or prohibiting certain uses or activities in a Park Facility, or a portion thereof, or in multiple Park Facilities, or portions thereof (“**Directive**”). A Directive will be adopted in accordance with, and subject to the requirements and restrictions of, the temporary directive provisions of Section 39-2(g), DRMC. A Directive will go into effect as of the date specified by the DPR Executive Director in the Directive and will remain in effect for 180 days unless the DPR Executive Director specifies a shorter duration. During the duration of the Directive, the Directive will be effective as any rule and regulation contained in the Park Use Rules & Regulations and may be enforced under Section 39-4, DRMC, in the same manner and to the same extent, as any ordinance in the Article I Ordinances.

2.2 Directive Notice: The public utilizing a Park Facility will typically be notified of any Directive-ordered restriction or prohibition of any use or activity in a Park Facility by signs or other postings placed in prominently visible locations within or near a Park Facility or the portion of the Park Facility subject to such restriction or prohibition. Notification of the Directive-ordered restriction or prohibition may also be directly provided by verbal communication or written notice from DPR staff or an Enforcement Official (as defined in 20.4 below) to members of the public. Collectively, these forms of notification are referred to herein as “**Directive Notice**”.

2.3 Compliance: Uses or activities restricted or prohibited by a Directive and for which a Directive Notice has been duly provided will not be allowed in contravention of the Directive. Exception to this rule:

2.3.1 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing the events or specific activities otherwise restricted or prohibited by Directive, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

**2A.0 Passive Recreation Use Area.** (39-4) The prohibition or restriction on activities or uses that adversely affect or change a Passive Recreation Use Area within a Park or a Mountain Park, as specified herein, are important to the safe and harmonious public use of such a Passive Recreation Use Area and for the protection and preservation of the Park or the Mountain Park.

2A.1 Definitions:

2A.1.1 *Passive Recreation Uses* mean common and customary uses of a park but does not include Team Sport Activities as restricted or prohibited by Passive Recreation Use Area Rules.



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2A.1.2 *Passive Recreation Use Area* means a portion or area within a Park or a Mountain Park that has been designated by the DPR Executive Director for only Passive Recreation Uses.

2A.1.3 *Passive Recreation Use Area Rules* means the time, place, and manner restrictions or prohibitions on Team Sport Activities in Passive Recreation Use Areas, as adopted by the DPR Executive Director.

2A.1.4 *Passive Recreation Use Area Rules Notice* means notice of the Passive Recreation Use Area Rules provided to the public by means of signs or other postings placed in prominently visible locations next to or in the Passive Recreation Use Area; however, notice of the Passive Recreation Use Area Rules may also be directly provided by verbal communication or written notice from DPR staff or an Enforcement Official (see definition in 20.4 below) to members of the public.

2A.1.5 *Team Sport Activities* mean the same as defined in 17A.1.4 below.

2A.2 Compliance: Team Sport Activities are not allowed in designated Passive Recreation Use Areas. Exception to this rule:

2A.2.1 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing certain scheduled Team Sport Activities in a Passive Recreation Use Area, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

2A.3 Violation of Passive Recreation Use Area Rules: Passive Recreation Use Area Rules specifying time, place and manner restrictions on Team Sport Activities within Passive Recreation Use Areas may be adopted by the DPR Executive Director and implemented by providing Passive Recreation Use Area Rules Notice. Violations of the Passive Recreation Use Area Rules and/or Passive Recreation Use Area Rules Notice are not allowed. Exception to this rule:

2A.3.1 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing certain scheduled Team Sport Activities in the Passive Recreation Use Area, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

2A.4 Foot wear: Cleats and spikes are prohibited in Passive Recreation Use Areas.

**3.0 Compliance with Permits.** (39-5) Permits issued by DPR authorizing certain events, uses or activities on or in Park Facilities must be complied with, as specified herein.

3.1 Permits: Various types of permits are established and authorized by rules and regulations and/or policies adopted by the DPR Executive Director and may be issued to permittees for various specified events, uses, or activities (“**Permits**”) on or in Park Facilities or portions of Park Facilities (“**Permitted Facilities**”). These Permits contain terms, conditions, and restrictions which are enforceable by various means, including enforcement through Sections 39-1(b) and 39-5, DRMC. Permits are subject to the Park Use Rules & Regulations except to the extent that the rules and regulations and/or policies adopted by the DPR Executive Director for a Permit have express exceptions to the Park Use Rules & Regulations or the Permit itself has express waivers to the Park Use Rules & Regulations.

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3.2 Permittee compliance: The holder of the Permit and all entities, contractors, persons, invitees and guests present on or in a Permitted Facility at the direction of or with the permission of the holder of the Permit ("**Permittees**") must comply with the terms, conditions, and restrictions contained in the Permit.

3.3 Permittee enforcement: Enforcement of a Permit will typically occur when there is either a deliberate or substantive violation of the Permit by a Permittee such that the violation a) presents an unreasonable potential for damage to or actually results in damage to a Park Facility or personal property on or in Park Facility; b) presents an unreasonable risk of injury to or actually causes injury to persons on or in the Park Facility; or c) presents an imminent threat of violation or results in an actual violation of applicable federal law, state statute, City ordinance, departmental rules and regulations, or executive order intended to protect the health, safety and welfare of the public. In addition, enforcement of a Permit may occur when a Permittee fails or refuses to comply with any warning or admonition, verbal or written, from the DPR Executive Director, a City official, DPR staff, or an Enforcement Official (as defined in 20.4 below) to not violate the Permit or to cease or to rectify a violation of the Permit.

3.4 Public compliance: Upon presentation of a valid and active Permit granting a Permit holder the right to utilize a Permitted Facility, any member of the public present in or on said Permitted Facility must relinquish to a Permittee and promptly vacate said Permitted Facility during the date and time specified in the Permit. When there is no Permit or when the Permit has expired, the public may utilize the Permitted Facility subject to the Park Use Rules & Regulations unless the Permitted Facility is only available for permitted uses.

3.5 Public enforcement: Enforcement of a Permit may occur when a member of the public fails or refuses to relinquish to a permittee and vacate a Permitted Facility upon presentation of the valid and active Permit or fails or refuses to comply with any warning or admonition, verbal or written, from the DPR Executive Director, a City official, DPR staff or an Enforcement Official (as defined in 20.4 below) to relinquish and vacate the Permitted Facility.

**3A.0 Admission Fees.** (39-5) Admission fees required by DPR, and authorized by ordinance, for public access or admission to enter or use a Park or Recreational Facility or Mountain Park, or portions thereof, must be paid prior to such access, admission or use, as specified herein.

3A.1 Admission Fees: For certain Parks, Recreational Facilities and Mountain Parks, or portions thereof ("**Admission Facilities**"), the charging and collection of fees for public access, admission or use have been authorized by ordinance ("**Admission Fees**"). Payment of these Admission Fees is a requirement for the right of public access, admission or use of these Admission Facilities. Exceptions to this rule:

3A.1.1 When the DPR Executive Director has waived or reduced the payment of an Admission Fee, but only to the extent that the Admission Fees were waived or reduced.

3A.1.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered creating exceptions, variations or alternative consideration to the Admission Fees for access, admission or use of an Admission Facility otherwise restricted or prohibited by this rule, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

3A.2 Evidence of Payment: Upon payment of the Admission Fee and if so prescribed as a condition of access, admission or use of an Admission Facility, a copy of the receipt or other proof of



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payment must be available for review or displayed if and as prescribed on the receipt or other proof of payment (“**Evidence of Payment**”). Failure to have in possession or to display the Evidence of Payment shall result in the presumption that the Admission Fee was not paid.

3A.3 Violation: When an Admission Fee is authorized by ordinance, no access, admission or use of an Admission Facility shall be allowed until the required Admission Fee has been paid and the Evidence of Payment is available or displayed as prescribed herein.

**3B.0 Failure to have a required Permit.** (39-5) Permits are required for certain events, uses or activities in Park Facilities, or portions thereof, and public engagement in these certain events, uses or activities without obtaining the required permit for the Park Facilities, or portions thereof, is not allowed, as specified herein.

3B.1 Definitions:

3B.1.1 *Demonstration* means a gathering of more than fifty (50) persons in a public forum area of a Park or a Mountain Park, or a portion thereof, for the purpose of a public meeting, assembly, speech, protest, rally, or vigil involving the expression of ideas, opinions, dissent, or grievances.

3B.1.2 *Festival* means a gathering of more than fifty (50) persons brought together for a public event in a Park or a Mountain Park, or a portion thereof, at which the DPR Executive Director has authorized the conduct of Festivals, and includes one or more the following events, uses or activities: entertainment, food and beverage sales, goods and services vending, spectator sports, electronic visual displays (including light shows, movies, televised events, multi-media displays, etc.), animal shows, parades, or an Admission-Based Event (as defined in the Admission-Based Event Policy adopted by DPR). Any event in a Park or a Mountain Park involving the sale and service of Alcohol Beverages and/or 3.2 Beer, as said terms are defined in 8.1 below and as such sales and service are authorized by the Alcohol Policy adopted by DPR, constitutes a Festival. A Festival may include a Demonstration as part of the Festival event, uses or activities.

3B.1.3 *Permit* means a revocable written permit issued by the DPR Permitting Office to a person, group, or entity granting a site reservation or a use priority for the purpose of holding a) a Festival or a Demonstration, as defined in 3B.1.1 and 3B.1.2 above, in a Park or a Mountain Park; or b) a Race/Walk, as defined in 3B.1.6 below, in along a Trail, as defined in 16.1.6 below, or a Park Road, as defined in 17.1.2 below, or elsewhere in a Park, a Mountain Park, or a Parkway Median, as defined in 1.3 above; c) a Singular Event, as defined in 3B.1.7 below, in a Park Facility, as provided for in 3B.6 below; d) a Picnic or Special Occasion conducted in a PSO Site, as defined in 3B.1.5 below; e) a Team Sports Activity in a Sports Facility, as provided in 3B.3 and 17A.0 below; f) a commercial activity in a Park or Mountain Park, subject to the Private Outdoor Fee-Based Activity (“POFA”) Policy, as provided in 3B.4 below; or g) the private rental of space in a recreation center, subject to the Recreation Facility Permitting Policy, as provided in 3B.5 below; all in accordance with established DPR permitting requirements.

3B.1.4 *Permitted Facility* means any Park Facility, or any portion thereof, for which a Permit is required by DPR or, if a Permit is not required, for which a Permit has been issued and is in effect for a Park Facility, or any portion thereof.

3B.1.5 *Picnic/Special Occasion* means an organized gathering of more than twenty-five (25) persons for a by-invitation-only function such as a family occasion, a birthday or graduation party, a



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school reunion, a corporate social event, a wedding or similar restricted attendance event in a Park, a Mountain Park, or a Parkway Median, or a portion thereof. A Picnic/Special Occasion may occur only at such sites or facilities at or in which the DPR Executive Director has authorized Picnics or Special Occasions (“**PSO Sites**”). The location of authorized PSO Sites shall be indicated to the public by means of signs or other postings placed in prominently visible locations in or near PSO Sites and by brochures or other written or electronic materials distributed to those obtaining a Permit for a Picnic or Special Occasion.

3B.1.6 *Race/Walk* means an organized foot race or run (walking, jogging or running), a race or organized ride of persons on Human-Powered Devices, as defined in 16.1.1 below, a pet parade or run, or similar activity, whether competitive or not, along a Trail, as defined in 16.1.6 below, or a Park Road, as defined in 17.1.2 below, or elsewhere in a Park, a Mountain Park, or a Parkway Median, as defined in 1.3 above, as such locations for Race/Walks have been authorized by the DPR Executive Director. A Race/Walk may include a Demonstration as part of the Race/Walk event, uses or activities.

3B.1.7 *Singular Event* means any organized event, use or activity involving more than fifty (50) persons gathering at one time in a Park Facility, and the event, use or activity is not a Festival, Demonstration, Race/Walk, or a Picnic/Special Occasion under this 3B.0 and is not subject to permitting as a Team Sports Activity conducted in a Sports Facility as noted in 3B.3 below, a commercial activity subject to the POFA Policy as noted in 3B.4 below, or the rental of recreation center space under the Recreation Facility Permitting Policy as noted 3B.5 below.

3B.2 Permits required: Permits must be obtained, in advance, for all Festivals, Demonstrations, Race/Walks, Picnics/Special Occasions and Singular Events, as the same are defined under 3B.1 above.

3B.3 Team Sports Activities/Sports Facilities: Requirements under this 3B.0 shall be applicable to Team Sports Activities and Sports Facilities as provided in 17A.0 below, particularly 17A.3 regarding Reserved Use of Sports Facilities and 17A.4 regarding Permitted Sports Facilities.

3B.4 Commercial activity: Any commercial activity that is not an authorized part of a permitted Festival, Race/Walk or Singular Event may be subject to the Private Outdoor Fee-Based Activity (“POFA”) Policy. If the commercial activity is subject to the POFA Policy, a Permit must be obtained in accordance with the POFA Policy. Mobile food vending to patrons in a Park Facility requires a mobile vendor permit as prescribed by DPR.

3B.5 Recreation centers: Any private event, use or activity in a DPR Recreation Center shall be subject to the Recreation Facility Permitting Policy adopted by DPR. A Permit must be obtained for a private event, use or activity as specified in the Recreation Facility Permitting Policy.

3B.6 Singular Event: From time to time, an event, use or activity involving a large gathering of people but not fitting into the other categories described in this 3B.0 may be proposed for a Park Facility. Such proposals for a Singular Event will require the review and approval of the DPR Executive Director and issuance of a Permit or, if so required by City Charter, a formal agreement. In any case, a Singular Event must be of such a nature that it will serve a park purpose in accordance with section 2.4.5 of the City Charter. The DPR Executive Director has the discretion to issue, issue with conditions, or deny a Permit for a Singular Event after considering the nature and scale of the Singular Event (including anticipated attendance, extent of the uses and activities, and equipment and furnishings brought on site), public health and safety, potential adverse impacts to the Park Facility and the surrounding neighborhood,



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demands on City resources, proposed mitigation measures or restoration commitments (including operational plans, damage deposits and insurance), ability to demonstrate conformance with DPR and other City standards, policies and requirements, and overall benefits and detriments to the City's park system. The Singular Event must be a one-time event unless substantial justification is provided demonstrating a need or benefit for it to be reoccurring. The need for any commercial activity associated with the Singular Event must also be substantially justified as serving a park purpose. No Singular Event may occur without the issuance of a Permit or entry into a formal agreement (if so required).

**3B.7 Enforcement:**

3B.7.1 General Enforcement: Enforcement of this 3B.0 may occur when a person, group or entity fails or refuses to obtain a required Permit when a Permit is required and/or fails to vacate a Permitted Facility upon warning or admonition, verbal or written, from the DPR Executive Director, a City official, DPR staff or an Enforcement Official (as defined in 20.4 below). Enforcement may result in the ordered cessation of the unauthorized event, use or activity, and/or the issuance of tickets or citations as authorized in sections 39-1 and 39-5, DRMC.

3B.7.2 Demonstration. Notwithstanding the foregoing, failure to obtain a Permit for a Demonstration shall result in only a warning or admonition for a first violation, with any subsequent violation for a new Demonstration being subject to fines under the Administrative Citation Rules and Regulations adopted by DPR. This provision shall not apply to Demonstrations which are part of a Festival or a Race/Walk.

**4.0 Destruction of or unauthorized changes to a Park Facility.** (39-6) The prohibition or restriction on activities or uses that adversely affect or change a Park Facility or Amenities in a Park Facility, as specified herein, are important to the safe and harmonious public use of Park Facilities and for the protection and preservation of Park Facilities.

4.1 Destructive activity: The removal, damage, destruction or defacing of an Amenity (as defined in 4.6 below) on or in a Park Facility or any other part of a Park Facility is prohibited. This prohibition includes graffiti, vandalism, marking, cutting, breaking or any contact resulting in damage, destruction or defacing.

4.2 Vegetation/firewood: The picking, removal and/or destruction of vegetation (trees, shrubs, plants, turf, flowers, etc.) or the collecting of firewood in or on a Park Facility is not allowed. Exceptions to this rule:

4.2.1 Such activity is authorized by the DPR Executive Director in writing.

4.2.2 Such activity is part of a DPR public activity program.

Any picking or removal of vegetation or collection of firewood in or on a Park Facility authorized by the DPR Executive Director or part of a DPR public activity program will be limited to that the specifically authorized activity and will be subject to any terms, conditions and restrictions imposed by the DPR Executive Director.

4.3 Structure/enclosure: No structure or enclosure is to be constructed, erected, installed or staked in any Park Facility. This includes, but is not be limited to: tents, shacks, booths, stands,

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amusement devices, recreational equipment, carnival equipment, monuments, art work and other improvements or furnishings, temporary or permanent (“**Structure/Enclosure**”). Exceptions to this rule:

4.3.1 Such placement of Structure(s)/Enclosure(s) is authorized by the DPR Executive Director in writing and prior to construction, erection, installation or staking.

4.3.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing the temporary placement of Structure(s)/Enclosure(s), so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

4.4 Signs: No signs, posters, banners, or advertising are to be constructed, erected, installed or placed in any Park Facility (“**Signs**”). Exceptions to this rule:

4.4.1 Signs held or supported by a person as an expression of free speech in a Park Facility that is a public forum. Such Signs must not be attached to the ground, vegetation, Park Facility or Amenity (as defined in 4.6 below) and must not be free-standing and unattended in the Park Facility.

4.4.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing the temporary placement of Signs in Park Facilities, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

4.4.3 Signs, including corporate sponsorship acknowledgments and memorials, placed and maintained as authorized and in accordance with policies and rules and regulations adopted by the Executive Director.

4.5 Amenities: Amenities are not to be removed from a Park Facility or altered or changed unless authorized by the DPR Executive Director in writing and prior to removal, alteration or change.

4.6 Amenities defined: Amenities include, but are not be limited to: natural features (rock formations, ponds, lakes, creeks, waterways, wetlands, natural areas, etc.); ditches; irrigation systems; buildings; monuments, statues and art work; pavilions; amphitheaters; picnic shelters and related facilities; athletic fields, ballparks, basketball courts, tennis courts and other sports facilities and equipment; golf courses and clubhouses; skating and biking facilities; swimming pools; parking lots; trails, paths, sidewalks, stairs and bridges; fountains and other structural water features; DPR or City signs; restrooms; fences and walls; and benches, chairs and tables, all located in or on a Park Facility.

**5.0 Rock climbing and Red Rocks and Summit Lake Parks.** (39-7) Restrictions and prohibitions relating to trail use and activities and rock climbing, as specified herein, are important to the safe and harmonious public use of Parks and Mountain Parks and for the protection and preservation of Parks and Mountain Parks.

5.1 [Reserved].

5.2 Climbing: Climbing on rock formations or cliffs in Parks or Mountain Parks (“**Climbing**”) is prohibited: a) where signs or notices are posted prohibiting Climbing or prohibiting the leaving of any established trail or path in the vicinity of rock formations or cliffs; b) where the person climbing puts himself or herself or other persons into clear danger; or c) where the person climbing is unable to get off the rock formations or cliffs without assistance of emergency services.



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5.3 Red Rocks trails: In order to protect and preserve the sensitive natural areas and rock formations within Red Rocks Park, the public is required to remain upon designated trails within Red Rocks Park and are not to enter into any natural area or onto rock formations in Red Rocks Park. This restriction does not apply at: a) facilities open to the public such as the amphitheater (however, rock formations in the amphitheater may not be climbed), visitor center, Indian Trading Post, parking lots, roadways, and sidewalks; and b) any open space area designated for public access and use.

5.4 Summit Lake: In order to protect and preserve the sensitive tundra, natural areas and rock formations within Summit Lake Park, the public is required to remain upon designated trails within Summit Lake Park and are not to enter into any natural area or onto rock formations in Summit Lake Park.

5.5 Designated trails: The trails and open space areas open for public access and use in Red Rocks Park and Summit Lake Park will be designated by the DPR Executive Director and notice to the public of these designated trails and open space will be either by signs posted in the Parks or through brochures and maps readily available in the Red Rocks Park or at Echo Lake Park, Summit Lake or other facility located on the road to Summit Lake Park; however, notification may also be directly provided by verbal communication or written notice from DPR staff or an Enforcement Official (as defined in 20.4 below) to members of the public.

**5A.0 Overnight Residing; Camping and Campgrounds.** (39-7) Restrictions and prohibitions relating to Overnight Residing, Camping, Campgrounds, as specified herein, are important to the safe and harmonious public use of Park Facilities and for the protection and preservation of Park Facilities.

5A.1 Definitions:

5A.1.1 *Campground* means a site in a Park or Mountain Park designated by the DPR Executive Director for the purpose of Camping by the public, either as a temporary or a permanent facility. The only permanent facility currently designated as a Campground is the Chief Hosa Campground in the Mountain Parks.

5A.1.2 *Camping* means the authorized short-term residential use of a Campground typically by means of recreational vehicles, campers, tents or similar camping equipment.

5A.1.3 *Camping Regulations* mean those rules and regulations which are integrated in the DPR permitting process for Camping and which are applicable to Camping and to Campgrounds. Camping Regulations are administered through the permitting system for Camping and Campgrounds and are enforceable under this 5A.0.

5A.1.4 *Camping Regulations Notice* means notice of Camping Regulations provided to those engaged in Camping or related activities or utilizing Campgrounds by means of signs or other postings placed in prominently visible locations in or near the Campground, by devices or directional signs controlling the movement and parking of vehicles in or near Campgrounds and the loading or unloading of Camping equipment in or near Campgrounds, or by brochures or other written materials distributed to those with a permit to engage in Camping or to utilize a Campground; however, notice of Camping Regulations may also be directly provided by verbal communication or written notice from DPR staff or an Enforcement Official (see definition in 20.4 below) to members of the public.

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5A.1.5 *Overnight Residing* means the occupancy and use, including but not exclusively for sleeping, of a Park Facility or a portion thereof during City Curfew (see 1.1) or Mountain Park Curfew (see 1.2), as applicable.

5A.2 **Overnight Residing:** Overnight Residing is not allowed except as provided in this 5A.0. An Enforcement Official (see definition in 20.4 below) shall comply with section 38-86.2(c), DRMC, to the extent applicable, prior to taking action to enforce against Overnight Residing. Exceptions to this rule:

5A.2.1 Overnight Residing is expressly authorized as a singular event by the DPR Executive Director at a specified Park Facility, so long as there is compliance with any conditions and restrictions imposed by the DPR Executive Director on the singular event.

5A.2.2 A permit has been issued or a contract with the City has been entered authorizing Overnight Residing at a specified location in a Park Facility, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

5A.3 **Camping and Campgrounds:** Camping and the use of Campgrounds by the public are allowed only as specified in this 5A.3:

5A.3.1 Camping permits are required and must be obtained in order to engage in Camping or to use Campgrounds. Camping permits must be available for inspection at all times. The Admission Fees provision of 3A.0 shall be applicable to Camping at Campgrounds.

5A.3.2 Camping by the public may occur only in Campgrounds and only to the extent that specific types of Camping activity or specific public uses of and locations within Campgrounds are authorized by the Camping permits or by the DPR Executive Director.

5A.3.3 Camping or the storing of camping equipment or vehicles in a Campground is prohibited when the Campground is closed to the public or when a permit for Camping has expired or has been revoked.

5A.3.4 Leaving a permitted site for Camping unattended for more than twenty-four (24) hours is not allowed unless permission is first obtained.

5A.3.5 Limited exception to 5A.3.1 through 5A.3.4: Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing Camping in a Campground, so long as there is compliance with the terms, conditions and restrictions of the permit or contract and applicable Camping Regulations and Camping Regulations Notice.

5A.4 **Camping Regulations:** Camping and the use of Campgrounds by the public shall be subject to such requirements, restrictions and prohibitions set forth in the Camping Regulations and as provided by Camping Regulations Notice. All persons, after obtaining the requisite permit for Camping and who are engaged in Camping, are required to be knowledgeable of the Camping Regulations and act in compliance with said Camping Regulations and Camping Regulations Notice at all times.

5A.5 **Right of inspection/compliance:** Any DPR staff or Enforcement Official (as defined in 20.4 below) shall have, as a condition of any Camping permit and the public use of any Campground, a right to access and inspect the exterior area of any Campground site for compliance with this 5A.0 and other Park Use Rules & Regulations. Refusal to allow such access or inspection or refusal to comply with



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this 5A.0 shall be sufficient grounds for the DPR staff or Enforcement Official (as defined in 20.4 below) to order the immediate vacation of the Campground by the permit holder, and any permit fees paid shall be forfeited.

5A.6 Assumption of risk/liability: Any person engaged in any activity allowed under this 5A.0 assumes all risks associated with such activity. Any person engaged in any activity allowed under this 5A.0 is liable for any damage or injury caused by said activity.

**6.0 Fire restrictions and bans; fireworks.** (39-8) Cooking fires, open fires and fireworks present a very real danger of wildfires and other fire damage in Park Facilities and adjoining property and are therefore prohibited or restricted as specified herein.

6.1 Fires: The starting and maintaining of fires in a Park Facility is prohibited except for fires in grills, fire pits and fireplaces provided for that purpose in a Park Facility or charcoal or gas grills brought by a Park Facility user. All fires must be totally contained within the grill, fire-pit or fireplace and must be attended to and controlled at all times. Privately owned charcoal or gas grills must be placed so that they are least twelve (12) inches off the ground and not on picnic tables or benches. Fire fuel is limited to gas, wood and charcoal. Charcoal starter fluid may be used but only to the extent necessary to start or maintain a controlled fire. Gasoline or other highly flammable or combustible liquids (other than charcoal starter fluid) are prohibited. All fires must be completely extinguished and the burnt charcoal and ashes removed from the Park Facility prior to the person who started or maintained the fire leaving the Park Facility. All burnt charcoal and ashes must be lawfully disposed of.

6.2 Fire bans: All fires, including those in grills, fire pits and fireplaces, are prohibited when an order banning fires in a Park Facility or Park Facilities is issued by the DPR Executive Director or other authorized public official, including such governmental officials for counties in which Mountain Parks are located.

6.3 Fireworks: Fireworks of any kind are prohibited in Park Facilities. This prohibition includes the possession, sale, ignition and discharge of fireworks. Fireworks are as defined in the adopted Denver Fire Code, as amended. Exception to this rule:

6.3.1 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing the professional discharging and display of fireworks otherwise restricted or prohibited by this rule, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

**7.0 Firearms, weapons and hunting.** (39-9) Firearms and weapons present a real danger to the safety of the public in or near Park Facilities and to Park Facilities themselves and are therefore prohibited or restricted as specified herein.

7.1 Firearms: Firearms are prohibited in Park Facilities except as provided herein. This prohibition includes the possession, display, flourishing or discharge of firearms. Firearms means pistols, revolvers, handguns, rifles, shotguns, machine guns, air guns, gas operated guns, spring guns, and any firearm that can discharge a bullet or metal shot or pellets. Exceptions to this rule:

7.1.1 Any handgun for which the owner holds a valid permit or a temporary emergency permit to carry a concealed handgun issued pursuant to state law and is otherwise carrying the

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handgun in conformance with applicable state or local law and is not engaging in any unlawful use of the handgun.

7.1.2 Any firearm for which the owner is carrying the firearm within a private automobile or other private means of conveyance for hunting or for lawful protection of the owner or another person or that owner or another person's property, and the person is otherwise in lawful possession of the firearm and is not engaging in any unlawful use of the firearm, including hunting in a Park Facility.

7.2 Weapons: Weapons are prohibited in Park Facilities except as provided herein. This provision does not include firearms addressed in 7.1 above. This prohibition includes the possession, display, flourishing and use of weapons. Weapons include blackjacks, nunchakus, brass knuckles or similar artificial knuckles, switchblades, knives with blades greater than 3 ½ inches, explosive devices, incendiary devices, bombs, b-b guns, pellet guns, paintball guns, Airsoft-type guns, cross bows, long bows, slingshots and similar potentially dangerous weapons. Exceptions to this rule:

7.2.1 Any weapon for which the owner is carrying the weapon within a private automobile or other private means of conveyance for hunting or for lawful protection of the owner or another person or that owner or another person's property, and the person is otherwise in lawful possession of the weapon and is not engaging in any unlawful use of the weapon, including hunting in a Park Facility.

7.2.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing use of specified weapons otherwise restricted or prohibited by this rule, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

7.3 Hunting: The hunting or killing of wildlife or other animals is prohibited in Park Facilities.

**8.0 Alcohol Beverages.** (39-10) The regulation and control of the sale, service and consumption of alcohol beverages and 3.2 beer, as specified herein, is important to the safe and harmonious public use of Park Facilities.

8.1 Definitions:

8.1.1 *Alcohol Beverages* means malt liquor (beer), vinous liquor (wine), and spirituous liquor (hard liquor) as defined in the Colorado Liquor Code, as this code may be amended from time to time, but does not include 3.2 Beer as further defined herein.

8.1.2 *Concession License* means any concession granted under Section 2.4.4(c) of the City Charter, when the Concession License expressly authorizes the concessionaire to sell and/or serve Alcohol Beverages and/or 3.2 Beer for consumption solely within the specified concession site and which is only granted upon concessionaire demonstrating that the required license has been obtained, and continues to be maintained, in accordance with State Liquor Laws.

8.1.3 *Contract* means any contract or agreement approved by the DPR Executive Director, the Mayor and (if required by City Charter) the City Council, which Contract expressly authorizes the contracting party to sell and/or serve Alcohol Beverages and/or 3.2 Beer for consumption solely within an authorized area of a Park Facility and which is only entered upon the contracting party



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obtaining and maintaining any license or permit required under State Liquor Laws, if such a liquor license or permit is required.

8.1.4 *Permit* means a permit issued by the DPR in accordance with adopted rules and regulations and/or policy, which Permit expressly authorizes the permittee to sell and/or serve Alcohol Beverages and/or 3.2 Beer for consumption solely within the permitted area of a Park Facility and which is only issued upon permittee obtaining and maintaining any license or permit required under State Liquor Laws, if such a liquor license or permit is required.

8.1.5 *State Liquor Law* means any legal requirement, restriction or prohibition contained in the Colorado Liquor Code and/or the Colorado Beer Code.

8.1.6 *3.2 Beer* means fermented malt beverages as defined in the Colorado Beer Code, as this code may be amended from time to time.

8.2 **Authorization:** The sale or service of Alcohol Beverages or 3.2 Beer in a Park Facility and the consumption of Alcohol Beverages or 3.2 Beer sold or served in a Park Facility is not allowed unless authorized by a Concession License, a Contract or a Permit and by State Liquor Law.

8.3 **Violation:** The sale or service of Alcohol Beverages or 3.2 Beer in a Park Facility and the consumption of Alcohol Beverages or 3.2 Beer sold or served in a Park Facility is not allowed if the Alcohol Beverages or 3.2 Beer is sold, served and/or consumed in violation of a Concession License, a Contract or a Permit or in violation of State Liquor Law.

8.4 **Personal Consumption:** The possession or consumption of Alcohol Beverages brought into a Park Facility by a patron or visitor to a Park Facility for Personal Consumption is not allowed. The possession and consumption of 3.2 Beer brought into a Park Facility by a patron or visitor for Personal Consumption is allowed except as provided in 8.5 below. **"Personal Consumption"** means the drinking of Alcohol Beverages or 3.2 Beer by a patron or visitor in a Park Facility where there is no authorized sale or service of the Alcohol Beverage or 3.2 Beer in the Park Facility.

8.5 **Special restrictions:** Alcohol Beverages and 3.2 Beer may not be possessed or consumed on, in or within fifty (50) feet of any roadway (public right of way or park road) in or adjoining a Park Facility or on, in or within fifty (50) feet of any playground, recreation center or swimming pool located in a Park Facility, except when authorized by a Concession License, a Contract or a Permit and by State Liquor Law.

**8A.0 Marijuana.** (39-10) The prohibition of the consumption, use, display, transfer, distribution, sale, or growth of marijuana, as specified herein, is important to the safe and harmonious public use of Park Facilities.

8A.1 **Violation:** The consumption, use, display, transfer, distribution, sale, or growth of marijuana in a Park Facility is prohibited.

(8A.0 was adopted on 9-9-14)

**8B.0 Smoking.** (39-10) Restrictions on smoking tobacco products in public, as specified herein, are important to the safe and harmonious public use of Parks Facilities.

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8B.1 Ordinance enforcement: Smoking of tobacco in public is regulated, and generally prohibited, under Article IX of Chapter 24 of the Denver Revised Municipal Code at or within certain City-owned facilities. Section 24-313, DRMC, provides that “[e]very department, agency and office of the city shall implement this article in all facilities under its management control.” In fulfillment of this ordinance mandate, and in addition to the enforcement provisions set forth in section 24-312, DRMC, smoking at or within any Park Facility in violation of Article IX of Chapter 24 of the Denver Revised Municipal Code shall be a violation of these Park Use Rules & Regulations.

8B.2 Special restrictions: Smoking is not allowed within fifty (50) feet of any playground, recreation center or swimming pool located in a Park Facility.

**9.0 Sales and gambling.** (39-11) The regulation and control of the sales of goods and services, as specified herein, and the prohibition of gambling, as specified herein, is important to the safe and harmonious public use of Park Facilities.

9.1 Definitions:

9.1.1 *Concession License* means any concession granted under Section 2.4.4(c) of the City Charter, when the Concession License expressly authorizes the concessionaire to engage in the sales of goods and/or services upon such terms and conditions as specified in the Concession License.

9.1.2 *Contract* means any contract or agreement approved by the DPR Executive Director, the Mayor and (if required by City Charter) the City Council, which Contract expressly authorizes the contracting party to engage in the sales of goods and/or services upon such terms and conditions as specified in the Contract.

9.1.3 *Gambling* means risking any money, credit, deposit or other thing of value for gain contingent in whole or in part upon lot, chance, the operation of a gambling device, or the happening or outcome of an event, including a sporting event, over which the person taking a risk has no control, but does not include: (a) bona fide contests of skill, speed, strength or endurance in which awards are made only to entrants or to the owners of entries; or (b) bona fide business transactions which are valid under the law of contracts; or (c) other acts or transactions now or hereafter expressly authorized by ordinance.

9.1.4 *Permit* means a permit issued by the DPR in accordance with adopted rules and regulations and/or policy, which Permit expressly authorizes the permittee to engage in the sales of goods and/or services upon such terms and conditions as specified in the Permit.

9.1.5 *Sales* mean any offering, sampling, soliciting, vending, bartering, bargaining and/or delivery of goods and/or services to or with the public. Sales include food and beverage vending, private recreational, personal training or exercise program services, and solicitation for passage by any type of vehicle, motorized or non-motorized (including horses and other ride animals), for hire or gratis. It does not include the sale of goods and/or services at a permitted Assembly when the goods and/or services are an integral and related part of the expression of free speech in a Park Facility that is a public forum; however, the sale of goods and/or services unrelated to the free speech being expressed in the Park Facility will be subject to the restrictions and prohibitions set forth in this section 9.0.

9.2 Sales authorization: The sales of goods or services are not allowed in a Park Facility unless authorized by a Concession License, a Contract or a Permit. The sales of goods or services are not



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allowed on the streets and sidewalks within three hundred (300) feet of the boundary of a Park or Recreational Facility unless authorized by a Concession License, a Contract or a Permit.

9.3 Sales violation: The sales of goods or services is not allowed in a Park Facility or within three hundred (300) feet of the boundary of a Park or Recreational Facility if the sales are in violation of a Concession License, a Contract or a Permit.

9.4 Gambling: Gambling is prohibited in Park Facilities. This prohibition includes social gambling.

**10.0 Disturbance of the peace.** (39-12) Maintaining peace and quiet in Park Facilities, as specified herein, is important to the safe and harmonious public use of Park Facilities.

10.1 Misbehavior: Action or behavior or the promotion or instigation of action or behavior that disturbs the peace of the public in Park Facilities is prohibited (“**Misbehavior**”). Such Misbehavior includes violent, tumultuous, offensive or obstreperous conduct; loud or unusual noises; unseemly, profane, vulgar, obscene or offensive language calculated to provoke a breach of the peace; or the assault, striking or fighting of another person.

10.2 Noise: The use of sound amplification systems (e.g., loudspeakers, public address systems, radios, tape or disc players, etc.) in such a manner as to breach the peace and quiet of a Park Facility is not allowed. Exceptions to this rule:

10.2.1 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing the use of sound amplification systems at specified locations, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

The use of such sound amplification systems is subject to the requirements, restrictions, conditions, exceptions, definitions, permitting and penalties prescribed in Section 38-89, DRMC; Chapter 36 of the Denver Revised Municipal Code; and their associated rules and regulations.

**11.0 Fishing.** (39-13) The regulation of fishing, as specified herein, serves to preserve and protect fish populations in City waterways and water bodies.

11.1 Fishing in City Waters: Fishing, spear fishing and ice fishing in lakes, ponds, rivers, streams, creeks and other waterways and water bodies owned or controlled by the City (“**City Waters**”) is not allowed. Exceptions to this rule:

11.1.1 Fishing may occur in those City Waters designated by the DPR Executive Director for public fishing, subject to such restrictions and prohibitions posted on signs next to or near said designated City Waters.

11.1.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing fishing in City Waters at specified locations, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

11.2 State license: All persons fishing in City Waters must have a fishing license issued in accordance with state law and may only continue fishing so long as all state laws regulating fishing are

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complied with. Failure to have a fishing license or to comply with state fishing regulations is a violation of 11.0.

**12.0 Waters and Water Facilities.** (39-14) The regulation of activities in and uses of Waters and Water Facilities, as specified herein, serves to preserve and protect these waters and the health and safety of the public and for the protection and preservation of Waters and Water Facilities.

12.1 Release or discharge: Throwing, releasing, or discharging anything into the Waters of a Park Facility is prohibited unless authorized in writing by the DPR Executive Director or under City law. This includes, but is not limited to: any material, dirt, mud, fill, rubble, debris, dead vegetation, carcasses, discarded furnishings, abandoned vehicles, junk, litter, trash, garbage, waste, broken glass, medical waste, excrement, chemicals, oil, gasoline, combustible or flammable fuel, petroleum products, explosive materials, pesticides, herbicides, ashes, PCB's, solvents, or any matter classified by law as a hazardous or toxic material or waste.

12.2. Swimming: Swimming in, or any entry into (when disallowed by public notice), the Waters of a Park Facility is not allowed. Exceptions to this rule:

12.2.1 Swimming is allowed in Waters of a Park Facility designated by the DPR Executive Director for public swimming, subject to such restrictions and prohibitions posted on signs next to or near said designated Waters.

12.2.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing swimming in Waters of a Park Facility, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

12.3 Water Facilities restrictions: Entry into or use of a Water Facility in a Park Facility is prohibited when the Water Facility is closed to the public. Exception to this rule:

12.3.1 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing use of a Water Facility when it is closed to the public, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

12.4 Waters defined: Lakes, ponds, rivers, creeks, canals, ditches, detention and retention ponds holding water, fountains, or similar waterways or water bodies located in or on Park Facilities.

12.5 Water Facilities defined: Swimming and wading pools, whirlpools, hot tubs, water slides, and interactive water features located in or on Park Facilities.

**13.0 Animals.** (39-15) The regulation and control of domestic animals and the protection and preservation of wildlife, as specified herein, is important to the safe and harmonious public use of Park Facilities and for the protection and preservation of Park Facilities.

13.1 Abandonment of animals: The deliberate abandonment or release of any animal – domestic pets or Wildlife (as defined in 13.4 below) – in or on a Park Facility is prohibited. Wildlife for the purposes of this 13.1 also includes any wildlife that is not native to Colorado.

13.2 Harassment of Wildlife: The harassment or deliberate disturbance of Wildlife (as defined in 13.4 below) situated in or inhabiting a Park Facility is prohibited. Wildlife for the purposes of this 13.2



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includes bison and elk managed by DPR in the Mountain Parks. This 13.2 does not apply to situations where Wildlife are attacking or presenting a real and imminent danger or threat of danger to persons, their pets or their private property. Hazing of coyotes is allowed when necessary to scare off coyotes.

13.3 Feeding Wildlife: The feeding of Wildlife (as defined in 13.4 below) in a Park Facility is not allowed.

13.4 Wildlife defined: Any undomesticated animal residing in the wild, including but not limited to: squirrels, prairie dogs, other rodents, rabbits, coyotes, fox, raccoons, skunks, deer, fish, water fowl, birds, amphibians and reptiles.

13.5 Domestic animal excrement: Excrement of a domestic animal such as a dog left or deposited by such animal on or in a Park Facility must be promptly and completely picked up and properly disposed of by the person or persons who brought or allowed the animal into the Park Facility.

13.6 Loose animals: A domestic animal such as a dog is not allowed to run loose or be left unattended on or in a Park Facility. A domestic animal is regarded as being "loose" if it is not restrained by a leash and properly controlled by the person or persons who brought or allowed the animal into the Park Facility. A domestic animal is regarded as being "left unattended," even if leashed or restrained, if the animal is alone without the owner in the immediate vicinity of the animal or left tied to a tree or structure in the Park Facility. Exceptions to this rule:

13.6.1 Trained service animals for the disabled are allowed to be off leash, but only as necessary so that the animal can provide the services for which it was trained.

13.6.2 Dogs may be allowed to be loose in a designated "dog park", subject to compliance with the rules and regulations set forth in 13A.0 on "Dog Parks".

13.6.3 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing domestic animals to be loose in a specific location or to enter Waters or Water Facilities in a specific location, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

13.7 Dogs on Trails: See restrictions in 16.3.8 below.

13.8 Waters or Water Facility: A domestic animal such as a dog is not allowed to enter the Waters or a Water Facility (as defined in 12.4 and 12.5 above) in or on a Park Facility, subject to the exception in 13.6.3.

13.9 Livestock: Livestock are not allowed to pasture, graze or run at large in a Park Facility except as authorized by the DPR Executive Director. Livestock include but are not limited to: domestic farm or ranch animals such as cattle, horses, sheep, goats, hogs and chickens. Any person who owns or controls Livestock and who employs or uses the services of another person who violates this 13.9 is responsible for any violation hereof, along with the person who actually brings the Livestock on or in a Park Facility.

13.10 Horseback riding: Horseback riding, including the riding of mules and donkeys, or other uses of horses, mules, donkeys, llamas or alpacas (such as for transporting goods or drafting carriages or wagons) is not allowed in a Park Facility. Exceptions to this rule:

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13.10.1 Horseback riding is allowed in areas designated by the DPR Executive Director for horseback riding, subject to compliance with such rules and regulations that may be posted in or near the designated area.

13.10.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing horseback riding or other uses of horses, mules, donkeys, llamas or alpacas in a specific location, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

13.11 Pitbulls. Bringing or possessing a pitbull in a Park Facility is prohibited. A "pit bull" is any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one (1) or more of the above breeds.

**13A.0 Dog Parks.** (39-15) The regulation and control of dogs in Dog Parks is important to the safe and harmonious public use of Park Facilities and for the protection and preservation of Park Facilities.

13A.1 Definition of Dog Park: A Dog Park is an area(s) within a Park Facility where the DPR Executive Director has designated that dogs may run loose and off leash. Such an area may be enclosed by a fence or other barrier or may be unfenced or otherwise open, as determined by the DPR Executive Director. A Dog Park shall have signage designating the area which is a "Dog Park". The restrictions on "loose animals" set forth in 13.6 above shall not be applicable in a Dog Park, provided that the dog is properly managed and controlled as provided below.

13A.2 Only dogs allowed: Pets, other than dogs, are not permitted in a Dog Park.

13A.3 Restricted use: Only activities common and customary for playing with, training and exercising dogs are allowed. No other uses, including other park uses and commercial uses, are allowed in a Dog Park except as authorized by the DPR Executive Director.

13A.4 Certain dogs not allowed: The following dogs are not permitted in a Dog Park:

13A.4.1 Aggressive dogs and dogs with a known propensity to attack or bite people or other dogs. Any dog that acts aggressively towards people or other dogs shall be immediately removed from the Dog Park.

13A.4.2 Female dogs currently in estrus.

13A.4.3 Dogs that do not have a current rabies vaccination tags issued to the particular dogs, which tags must be attached to the dogs' collars or harnesses.

13A.4.4 Dogs too young to be vaccinated against rabies.

13A.5 Restrictions on persons: The following restrictions shall apply to persons within a Dog Park:

13A.5.1 A person ten (10) years of age or younger is not permitted in a Dog Park.



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13A.5.2 Any person eleven (11) to fifteen (15) years of age must be accompanied by an adult (18 years of age or older).

13A.5.3 Any person in charge of a dog must be sixteen (16) years of age or older.

13A.5.4 Any one person may not be in charge of more than two (2) dogs at a time.

13A.6 Days and hours of operation: Dogs are not permitted in a Dog Park when the Dog Park is closed or outside of the posted days and hours of operation for the Dog Park. Dogs are not permitted in a Dog Park when the Dog Park is dark and unlighted. Park Curfews apply. See 1.0 above.

13A.7 Leash: A person bringing a dog to a Dog Park must have a leash available at all times. A dog must be kept on a leash until it is inside the Dog Park. A dog must be placed on a leash before it may be taken outside of the Dog Park.

13A.8 Control: Notwithstanding the fact that a dog may be off leash in a Dog Park, a dog must be under the control of the person in charge of the dog and must be in view of that person at all times.

13A.9 Dog excrement: The “domestic animal excrement” rule (see 13.5 above) shall be applicable to dogs within a Dog Park.

13A.10 Food: Human food is not permitted within Dog Parks. However, dog treats are permitted.

13A.11 Damage: The person in charge of a dog is responsible for any damage to the Dog Park caused by the dog. Holes dug by a dog must be filled in and any turf damage must be repaired. If repairs cannot be made or are not made by the person in charge of a dog that caused the damage, then the costs of such repairs may be charged to said person.

13A.12 Injury: The person in charge of a dog in a Dog Park is responsible for any injury to any person or other dog caused by that person’s dog.

13A.13 Posted rules: Any person in charge of a dog in a Dog Park must comply with all posted rules and regulations.

13A.14 Assumption of risk/liability: Any person engaged in any activity allowed under this 13A.0 assumes all risks associated with such activity. Any person engaged in any activity allowed under this 13A.0 is liable for any damage or injury caused by said activity.

**14.0 Large Inflatables, Flying Objects, Model Boats, Sledding Devices, ice skating and walking on frozen lakes or ponds.** (39-16) The regulation and control of large inflatables, flying objects, model boats, sledding devices, ice skating and walking on frozen lakes or ponds, as specified herein, is important to the safe and harmonious public use of Park Facilities.

14.1 [Reserved].

14.2 Large Inflatables: Any inflatable device, free-standing five (5) feet or more in height (“Large Inflatable”), is not allowed in a Park Facility. Exceptions to this rule:

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14.2.1 Large Inflatables may be allowed in areas in a Park Facility designated by the DPR Executive Director for the installation or use of Large Inflatables, subject to compliance with such rules and regulations that may be posted in or near the designated area.

14.2.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing Large Inflatables in a particular location, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

14.3 Flying Objects: The throwing, striking, propelling, launching or otherwise operating flying or propelled object of a potentially dangerous nature, such as a hang glider, sky diving, sky sail, drone ("unmanned aerial vehicle"), model airplane or helicopter, model rocket, golf ball, rock, and similar flying or propelled item ("**Flying Object**") is not allowed in a Park Facility. A Flying Object does not include a non-motorized model airplane under a half pound in weight, a Frisbee or a kite. Objects propelled by Weapons identified in 7.2 above are subject to the restrictions set forth in 7.2. Fireworks identified in 6.3 are prohibited in Park Facilities. Exceptions to this rule:

14.3.1 Flying Objects are allowed in areas in a Park Facility designated by the DPR Executive Director for such Flying Objects activity such as a golf course or driving range for golf balls, a designated model airplane or helicopter flying area, or a rocket launching area, subject to compliance with such rules and regulations that may be posted in or near the designated areas.

14.3.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing specific Flying Objects in a particular location, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

14.4 Model Boats: The operation or use of a model boat, whether wind-powered, gas-powered or electric ("**Model Boat**"), on a lake or pond within a Park Facility is not allowed. Exceptions to this rule:

14.4.1 Model Boats may be allowed in areas of a Park Facility designated by the DPR Executive Director for Model Boat operation, subject to compliance with such rules and regulations that may be posted in or near the designated area.

14.4.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing operation of a Model Boat in a particular location, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

14.5 Sledding Devices: The operation or use of, or riding upon, any device propelled in part by a human and in part by gravity down snowed, iced or slick slope, including but not limited to: a) a sled, b) a toboggan, c) inflatable tube, d) saucer, e) luge and f) cross-country skis ("**Sledding Device**"), is allowed in a Park Facility, except in areas of a Park Facility where such activity involving a Sledding Device would be dangerous or hazardous to the participant or other members of the public, including roads, playgrounds, athletic fields, parking lots, flower beds, ponds, lakes, or any area of a Park Facility which is closed to Sledding Devices by the DPR Executive Director. Snowboards and downhill skis may only be used in areas of a Park Facility which are expressly designated by the DPR Executive Director for the public use of snowboards and downhill skis.

14.6 Ice skating and walking on frozen lakes/ponds: Ice skating and walking on a frozen lake or pond in a Park Facility is not allowed. Exceptions to this rule:



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14.6.1 Ice skating and walking on frozen lakes and ponds may be allowed in areas in a Park Facility designated by the DPR Executive Director for ice skating, ice fishing or similar winter activity, subject to compliance with such rules and regulations that may be posted in or near the designated area.

14.6.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing ice skating, ice fishing or similar winter activity in a particular location, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

14.7 Assumption of risk/liability: Any person engaged in any activity allowed under this 14.0 assumes all risks associated with such activity. Any person engaged in any activity allowed under this 14.0 is liable for any damage or injury caused by said activity.

**15.0 Bottles, littering and dumping.** (39-17) The regulation and control of bottles, dumping and littering, as specified herein, is important to the safe and harmonious public use of Park Facilities and for the protection and preservation of Park Facilities.

15.1 Bottles: Broken bottles and glass present a substantial hazard to the users of Park Facilities. For that reason, bottles and other glass containers are not allowed in Park Facilities. Exceptions to this rule:

15.1.1 Bottles and glass containers are allowed in areas of Park Facilities where there is a concession or other authorized food and beverage service for which the use of bottles and glass containers is expressly allowed in the Park Facility and where the concessionaire or food and beverage vendor is responsible for cleaning up broken bottles and glass.

15.1.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing bottles or glass containers in a particular location, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

15.2 Dumping: Dumping, depositing or leaving anything in Park Facilities is prohibited unless authorized in writing by the DPR Executive Director or under City law. This includes, but is not limited to: any material, dirt, mud, fill, rubble, debris, dead vegetation, carcasses, discarded furnishings, abandoned vehicles, junk, trash, garbage, waste, broken glass, medical waste, excrement, chemicals, oil, gasoline, combustible or flammable fuel, petroleum products, explosive materials, pesticides, herbicides, ashes, PCB's, solvents, or any matter classified by law as a hazardous or toxic material or waste. This prohibition includes bringing any of the above items into a Park Facility for the purpose of dumping or depositing the same into any dumpster or disposal receptacle.

15.3 Littering: Littering is prohibited in Park Facilities. All persons generating any trash, garbage, waste, or other refuse ("**Litter**") in a Park Facility is responsible for placing the Litter into a disposal receptacle or dumpster provided for that purpose in the Park Facility or, if there is no disposal receptacle or dumpster, for removing from the Park Facility and properly disposing of the Litter.

15.4 Other materials or items: The prohibition against dumping and littering is extended to any materials or items (not listed in 15.2 and 15.3 above) brought into a Park Facility and left unattended by any person, even when the materials or items have inherent value or good use. Materials or items are

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deemed “left unattended” if there is no prior authorization from the DPR Executive Director to leave the materials or items in or at the Park Facility and the person bringing the materials or items or who has control of the materials or items a) exits the Park Facility with no responsible person-attending to the materials or items or remaining to properly dispose of the materials or items, or b) fails to properly take care of the materials or items such that dumping or littering effectively results in physical damage to the Park Facility or injury to the users of the Park Facility has occurred or is likely to occur.

**16.0 Trails, Park Roads and Human-Powered Devices.** (39-18) The regulation and control of Trails, Park Roads and Human-Powered Devices, as specified herein, is important to the safe and harmonious public use of Park Facilities and Trails and for the protection and preservation of Park Facilities and Trails.

16.1 Definitions:

16.1.1 *Human-Powered Device* means any non-motorized wheeled vehicle or device propelled by a human, including but not limited to: a) bicycles, b) skates (roller, in-line, roller blades, etc.), c) skateboards, and d) scooters. Except where noted in this section 16.0, a wheelchair or a similar mobility assisted device used by a disabled person for conveyance is regarded as a Human-Powered Device.

16.1.2 *Park Road* means the same as defined in 17.1.2 below.

16.1.3 *Regional Trail* means any of the following trail systems to the extent operated or controlled under the jurisdiction of DPR: a) Bear Creek Trail, b) Cherry Creek Trail, c) High Line Canal Trail, d) Lakewood Gulch Trail, e) Sand Creek Trail, f) Sanderson Gulch Trail, g) Weir Gulch Trail, h) South Platte River Trail, and i) any other trail designated by the DPR Executive Director as a Regional Trail.

16.1.4 *Trail Rules* means the rules and regulations designed to regulate the behavior of the Traveling Public and to protect the Traveling Public and other persons on or near a Trail or a Park Road, as provided in 16.2 below.

16.1.5 *Trail Rules Notice* means notice of Trail Rules provided to the Traveling Public and other persons on or near a Trail or a Park Road by means of signs or other postings placed in prominently visible locations next to or near the Trail or the Park Road or by traffic signs or traffic-control devices; however, notice of Trail Rules may also be directly provided by verbal communication or written notice from DPR staff or an Enforcement Official (see definition in 20.4 below) to members of the public.

16.1.6 *Trail* means any trail, path or sidewalk, hard surfaced or soft surfaced, located in any Park Facility or any other trail, path, or sidewalk, hard surfaced or soft surfaced, designated as a Regional Trail. Trail does not include any sidewalk located in right of way for a Parkway outside of a Parkway Median (as defined in 1.3 above).

16.1.7 *Traveling Public* means persons traveling on Trails or Park Roads as pedestrians or operators of Human-Powered Devices.

16.2 Violation of Trail Rules: Trail Rules specific to a particular Trail or segment of Trail or the Traveling Public on or near a Park Road may be established by the DPR Executive Director and



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implemented by providing Trail Rules Notice. Uses, activities or behavior restricted or prohibited by the Trail Rules and for which Trail Rules Notice has been provided are not allowed in violation of the Trail Rules.

16.3 Basic Trail Rules: If there are no different or contrary Trail Rules for which Trail Rules Notice has been provided, the following basic rules are applicable:

16.3.1 The speed limit for Human-Powered Devices on a Trail or a Park Road is fifteen (15) miles per hour unless otherwise posted. The speed limit is reduced to what is reasonable under the circumstances when there is heavy traffic on the Trail or a Park Road, at-grade intersections with streets, inclement weather, darkness or conditions warranting slower speeds for Human-Powered Devices.

16.3.2 Operators of Human-Powered Devices must also take such other precautions as are reasonable under the circumstances when there is heavy traffic on the Trail or a Park Road, at-grade intersections with streets, inclement weather, darkness or conditions warranting such precautions for the operation of Human-Powered Devices and as appropriate to protect the safety of the public and property. Reckless or dangerous uses of Human-Powered Devices on Trails or Park Roads are prohibited.

16.3.3 The Traveling Public must stay to the right side of a Trail or Park Road, except when passing, and must not block or substantially impede the Traveling Public coming from the opposite direction.

16.3.4 Operators of Human-Powered Devices must yield to pedestrians and slower operators of Human-Powered Devices. Yielding includes slowing down and being prepared and able to stop timely and safely when necessary under the circumstances.

16.3.5 Passing may occur only after yielding to the Traveling Public coming from the opposite direction and only when it is safe to do so and when the persons being passed are appropriately warned of the impending pass.

16.3.5 Stopping or standing on a Trail or a Park Road such that the passage of the Traveling Public is blocked or substantially impeded is not allowed.

16.3.6 Operators of Human-Powered Devices, except for wheelchairs or other mobility assisted devices being used by the disabled, must dismount or cease operating or riding the Human-Powered Devices when appropriate under the circumstances, such as when it is necessary in order to safely enter or exit Trails or Park Roads, to cross at unsafe or busy at-grade intersections with streets, due to inclement weather, or when conditions warrant not operating or riding Human-Powered Devices.

16.3.7 Operators of Human-Powered Devices must comply with all other state laws and local laws applicable to such Human-Powered Devices.

16.3.8 Dogs brought on to Trails and Park Roads must be restrained by a leash no longer than six (6) feet in length. Operators of Human-Powered Devices, except for wheelchairs or other mobility assisted devices being used by the disabled, on Trails and Park Roads are not allowed to have a dog on leash while operating or riding Human-Powered Devices. The leash requirements shall not be applicable to trained service animals for the disabled in wheelchairs or other mobility assisting devices to the extent necessary so that the animal can provide the services for which it was trained.

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16.3.9 The provisions of 13.0 regulating and restricting activities, uses and behavior pertaining to animals, including dogs, shall be applicable to Trails and Park Roads.

16.4 Non-travelling uses: Trails are primarily intended for the use of the Traveling Public. Public uses or activities not involving lawful travel on a Trail are not allowed to occur on a Trail so as to prevent or substantially impede the Traveling Public's use of the Trail.

16.5 Human-Powered Devices on Trails and Park Roads: In order to protect and preserve Park Facilities and the safety of the public, Human-Powered Devices are to be operated or ridden only on established Trails and on roadway areas of Park Roads, driveways and parking areas located in Park Facilities. Exceptions to this rule:

16.5.1 Wheelchairs or other mobility assisted devices being used by the disabled.

16.5.2 Human-Powered Devices may be allowed in areas in a Park Facility designated for such activity, such as a skatepark or a bicycle course, subject to compliance with such rules and regulations that may be posted in or near the designated area.

16.5.3 Human-Powered Devices may not be operated on any Trail which is posted with a sign not allowing the operation of all or certain Human-Powered Devices on a Trail or a part of a Trail.

16.5.4 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing Human-Powered Devices in a particular location, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

16.5.5 Unless authorized by the DPR Executive Director by permit or other writing, a person may not operate or ride upon any Human-Powered Device in or on any pavilion, monument, event facility, open-air theater, fountain, interactive water feature, playground area, athletic or playing field, ballpark, tennis court or basketball court located in a Park Facility and may not propel or jump any Human-Powered Device up or down steps, walls, rails or similar elevated features in any Park Facility not designated by the DPR Executive Director for that purpose.

16.6 Assumption of risk/liability: Any person engaged in any activity allowed under this 16.0 assumes all risks associated with such activity. Any person engaged in any activity allowed under this 16.0 is liable for any damage or injury caused by said activity.

**17.0 Motorized Vehicles; snowmobiles, go-carts and ATV's; vehicle repair; and overnight parking.** (39-19) The regulation and control of Motorized Vehicles, snowmobiles and ATV's, vehicle repair, and overnight parking, as specified herein, is important to the safe and harmonious public use of Park Facilities and for the protection and preservation of Park Facilities.

17.1 Definitions:

17.1.1 *Motorized Vehicle* means any motorized wheeled vehicle or device or a trailer (whether or not attached to Motorized Vehicle) including but not limited to an automobile, truck, van, sports utility vehicle, recreational vehicle, motorcycle, motor scooter, and motor bike.

17.1.2 *Park Road* means any roadway for Motorized Vehicles which is located in a Park or a Mountain Park and which is administered and operated by DPR.



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17.1.3 *Trail* means the same as defined in 16.1.6 above.

17.1.4 *Travelling Public* means the same as defined in 16.1.7 above.

17.2 Restricted travel or parking areas: In order to protect and preserve Park Facilities and the safety of the public, Motorized Vehicles are to be operated only on established roadway areas of Park Roads, driveways and parking areas located in Park Facilities, only to the extent that the same are open to travel by Motorized Vehicles, and are to be parked only in designated parking spaces on roadway areas of Park Roads, driveways and parking areas. Exceptions to this rule:

17.2.1 Motorized wheelchairs and other mobility assisted devices being used by the disabled.

17.2.2 Motorized Vehicles may be allowed in areas in a Park Facility designated by the DPR Executive Director for driving and/or parking Motorized Vehicles or certain types of Motorized Vehicles, subject to compliance with such rules and regulations that may be posted in or near the designated area.

17.2.3 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing the driving and/or parking of Motorized Vehicles or certain types of Motorized Vehicles in a particular location, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

17.3 Trails: Motorized Vehicles are not allowed on Trails. Exceptions to this rule:

17.3.1 Motorized wheelchairs and other mobility assisted devices being used by the disabled.

17.3.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing the driving or parking of Motorized Vehicles or certain types of Motorized Vehicles in a particular location on a Trail within a Park Facility, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

17.4 Traffic controls: Motorized Vehicles must be operated and parked so as to comply with all posted rules, traffic signs and traffic-control devices regulating such Motorized Vehicles. Unless traffic signs or traffic-control devices indicate differently, the operators of Motorized Vehicles must yield to patrons on or in a Park Facility and the Traveling Public on Trails.

17.5 Snowmobiles, go-carts and ATV's: Snowmobiles, go-carts and all-terrain vehicles (ATV's) are not allowed in a Park Facility or a Trail.

17.6 Repair or maintenance: The repair or maintenance, including cleaning, of any Motorized Vehicle is not allowed on or in a Park Facility except for emergency repairs necessitated by the inability to start or operate a Motorized Vehicle lawfully brought on or in a Park Facility.

17.7 Overnight parking: A Motorized Vehicle may not be parked or stored on or in a Park Facility during curfews as specified in section 1.0 above. Exceptions to this rule:

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17.7.1 On-street parking in Parkways where such on-street parking is allowed.

17.7.2 Overnight parking may be allowed in areas in a Park Facility designated for such activity, subject to compliance with such rules and regulations that may be posted in or near the designated area.

17.7.3 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing the overnight parking of Motorized Vehicles or certain types of Motorized Vehicles in a particular location within a Park Facility, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

17.8 Assumption of risk/liability: Any person engaged in any activity allowed under this 17.0 assumes all risks associated with such activity. Any person engaged in any activity allowed under this 17.0 is liable for any damage or injury caused by said activity.

**17A.0 Sports Facilities; Team Sport Activities.** (39-20) The regulation and control of Sports Facilities and Team Sport Activities, as specified herein, are important to the safe and harmonious public use of Park Facilities and for the protection and preservation of Park Facilities.

17A.1 Definitions:

17A.1.1 *Sports Facilities* mean athletic or playing fields, ball parks, ice skating rinks, skateparks, ultimate Frisbee courses, basketball courts, volleyball courts, tennis courts, other ball courts or facilities, gymnasiums, and similar or related sports or recreational facilities located in Park Facilities.

17A.1.2 *Sports Facilities Regulations* means the rules and regulations adopted by the DPR Executive Director and designed to regulate behavior and protect the public attending or participating in sporting or recreational activities in Sports Facilities and other persons on or near Sports Facilities, as provided in 17A.6 below.

17A.1.3 *Sports Facilities Regulations Notice* means notice of Sports Facilities Regulations provided to the public attending or participating in sporting or recreational activities in Sports Facilities and other persons in or near Sports Facilities by means of signs or other postings placed in prominently visible locations in or near the Sports Facilities or by brochures or other written materials distributed to those with a permit or license to utilize a Sports Facility; however, notice of Sports Facilities Regulations may also be directly provided by verbal communication or written notice from DPR staff or an Enforcement Official (see definition in 20.4 below) to members of the public.

17A.1.4 *Team Sport Activities* means football, rugby, soccer, lacrosse, field hockey, softball, baseball, kickball, ultimate Frisbee, basketball, volleyball, or similar active, higher intensity recreation uses involving team sports.

17A.2 Team Sport Activities: Team Sport Activities are to be conducted on or in Sports Facilities intended or designated for Team Sports Activities. In order to avoid conflicts with other Park Facility users or potential injuries or property damage, Team Sport Activities are not allowed in Park Facilities outside of said Sports Facilities. This restriction applies only to those Team Sport Activities scheduled or arranged by a person or persons, other than DPR, for groups or organized teams, and not to casual or spontaneous (unscheduled) games. With respect to Passive Recreation Use Areas, see 2A.0.



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17A.3 **Reserved Use of Sports Facilities:** Many Sports Facilities are subject to being reserved at particular times for sporting events or programs a) by permits issued to individuals, groups or organizations, b) by assignment to leagues or organized sports groups, c) for contracted use by Denver Public Schools or other schools, or d) for DPR sports and recreational programs (“**Reserved Use**”). All members of the public utilizing or occupying, in part or whole, a Sports Facility during the time of a scheduled Reserved Use must promptly leave and vacate the Sports Facility upon being informed of the Reserved Use.

17A.4 **Permitted Sports Facilities:** As specified by the DPR Executive Director, certain Sports Facilities are subject to being used only upon obtaining a permit for the use of the Sports Facilities (“**Permitted Sports Facilities**”). No person, other than authorized spectators, without a valid and active permit, may use or engage in any activity within such Permitted Sports Facilities.

17A.5 **Reserved Use, Permits & Fees:** The Compliance with Permits provision of 3.0 shall be applicable to situations involving the Reserved Use of Sports Facilities and Permitted Sports Facilities. The Admission Fees provision of 3A.0 shall be applicable to Sports Facilities for which a fee or other payment is required. With respect to failure to have a required permit, see 3B.3.

17A.6 **Violation of Sports Facilities Regulations:** The use of Sports Facilities by the public shall be subject to the requirements, restrictions and prohibitions set forth in the Sports Facilities Regulations and as provided by Sports Facilities Regulations Notice. All persons utilizing a Sports Facility are required to be knowledgeable of the Sports Facilities Regulations and to act in compliance with said Sports Facilities Regulations and Sports Facilities Regulations Notice at all times.

17A.7 **Basic Sports Facilities Rules:** Unless there are different or contrary Sports Facilities Regulations for which Special Sports Facilities Regulations Notice has been provided, the following basic rules are applicable to all Sports Facilities:

17A.7.1 **Shoes:** Shoes or other appropriate foot attire are required to be worn within Sports Facilities. Shoes with metal spikes or metal cleats are not allowed. Only soft-sole shoes, such as tennis shoes, are allowed on tennis courts.

17A.7.2 **Human-Powered Devices & Motorized Vehicles:** Human-Powered Devices (as defined in 16.1.1 above) or Motorized Vehicles (as defined in 17.1.1 above), except as driven or ridden by authorized personnel or as specifically authorized by permit, shall not be allowed on or within Sports Facilities. Authorized Human-Powered Devices are permitted in skateparks. This provision shall not be applicable to wheelchairs, motorized or not, and other mobility assisted devices being used by the disabled.

17A.7.3 **Pets:** No pets are allowed in Sports Facilities except to the extent authorized by the Sports Facilities Regulations and Sports Facilities Regulations Notice. Trained service animals for the disabled are allowed but must be leashed and under control at all times, except that they may be unleashed as necessary so that the animal can provide the services for which it was trained.

17A.7.4 **Modifications:** Modifications, temporary or permanent, to the grounds, playing surface or facilities associated with a Sports Facility, including snow removal, are not allowed without the prior authorization of the DPR Executive Director.

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17A.7.5 Synthetic Turf: The public use of any Sports Facility with synthetic turf is subject to restrictions and prohibitions to protect and preserve the synthetic turf. Nothing may be brought by the public onto synthetic turf that would damage or stain the synthetic turf. This prohibition is intended to protect the synthetic turf from burning, melting, discoloring, defacement, and cutting and includes such items as cigarettes, fire, flammable or caustic liquids, or sharp metal objects. Posted rules and regulations regarding the protection of synthetic turf must be complied with.

17A.7.6 Tennis Courts: No sports or other recreational activities, except for the play of tennis, is allowed on tennis courts without the prior authorization of DPR Executive Director.

17A.7.4 Paid Lessons/Coaching: No private lessons, coaching or similar services for pay or other consideration, except by authorized personnel, are allowed in or on Sports Facilities. Exception to this rule:

17A.7.4.1 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing private lessons, coaching or similar services for pay or other consideration, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

17A.8 Assumption of risk/liability: Any person engaged in any activity allowed under this 17A.0 assumes all risks associated with such activity. Any person engaged in any activity allowed under this 17A.0 is liable for any damage or injury caused by said activity.

**18.0 Boating.** (39-21) The regulation and control of Boating and Boat Facilities, as specified herein, is important to the safe and harmonious public use of City Waters and Boat Facilities and for the protection and preservation of City Waters and Boat Facilities.

18.1 Definitions:

18.1.1 *Boating* means the use of Watercraft capable of carrying people on City Waters.

18.1.2 *Boating Facilities* mean those structural facilities, both on and off City Waters, used for the purpose of supporting Boating such as decks or anchorage for docking and boat ramps.

18.1.3 *Boating Regulations* mean those rules and regulations which are integrated in the DPR permitting process for Boating and which are applicable to Boating on City Waters and to Boating Facilities. Boating Regulations are administered through the permitting system for Boating on City Water and Boating Facilities and are enforceable under this 18.0.

18.1.4 *City Waters* means lakes, ponds, rivers, streams, creeks and other waterways and water bodies owned or controlled by the City.

18.1.5 *Boating Regulations Notice* means notice of Boating Regulations provided to those engaged in Boating or related activities or utilizing Boating Facilities by means of signs or other postings placed in prominently visible locations next to or near City Waters or Boating Facilities, by devices or directional signs controlling the movement of Watercraft or the loading or unloading of Watercraft in or near City Waters or Boating Facilities, or by brochures or other written materials distributed to those with a permit to engage in Boating on City Waters; however, notice of Boating



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Regulations may also be directly provided by verbal communication or written notice from DPR staff or an Enforcement Official (see definition in 20.4 below) to members of the public.

18.1.6 *State Boating Laws* shall mean those statutes, rules, regulations and directives of the State of Colorado and its agencies regulating Boating by the public within the State of Colorado, including registration of Watercraft and licensing of operators, and pertaining to the control of aquatic nuisance species.

18.1.7 *Watercraft* means all kinds of boats, sailboats, rafts, kayaks and other human-occupied crafts operated on water, whether motor-powered or not.

18.2 Boating and Boating Facilities: Boating on City Waters and the use of Boating Facilities are allowed only as specified in this 18.2:

18.2.1 Access and Use: Boating may occur only on those City Waters designated by the DPR Executive Director for Boating by the public and only to the extent that specific Boating activity or types of Watercraft are authorized by the DPR Executive Director. Taking Watercraft or Boating on City Waters and use of Boating Facilities when the same are closed to the public are prohibited.

18.2.2 Permits and Fees: Boating permits are required and must be obtained in order to engage in Boating on City Waters and to use Boating Facilities. Boating permits must be available for inspection at all times. The Admission Fees provision of 3A.0 shall be applicable to Boating on City Waters. With respect to Failure to Have a Required Permit, see 3B.3.

18.2.3 Limited exceptions to 18.2.1 and 18.2.2: Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing Boating in City Waters at specified locations, so long as there is compliance with the terms, conditions and restrictions of the permit or contract and applicable Boating Regulations and Boating Regulations Notice.

18.2.4 Boating Regulations: Boating on City Waters and the use of Boating Facilities by the public shall be subject to such requirements, restrictions and prohibitions set forth in the Boating Regulations and as provided by Boating Regulations Notice. All persons, who are engaged in Boating on City Waters or utilizing Boating Facilities, are required to be knowledgeable of the Boating Regulations and act in compliance with said Boating Regulations and Boating Regulations Notice at all times.

18.2.5 State Boating Laws: Boating on City Waters is subject to State Boating Laws. Any violation of State Boating Laws shall also be a violation of these Park Use Rules & Regulations. All persons engaged in Boating on City Waters are required to be knowledgeable of State Boating Laws and act in compliance with said State Boating Laws at all times. To the extent that DPR's Boating Regulations are more stringent or restrictive than State Boating Laws, DPR's Boating Regulations shall control.

18.3 Personal Flotation Device ("PFD"): Boating is prohibited unless each and every person engaged in Boating on City Waters has ready access within the Watercraft a U.S. Coast Guard-approved PFD of the correct size and in serviceable condition.

18.4 Safe boating: The navigation, directing or handling of any Watercraft in such a manner as to unjustifiably or unnecessarily annoy or frighten or endanger the occupants of any other Watercraft or

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other users of City Waters or Boat Facilities, or the reckless or careless operation of a Watercraft, is prohibited.

18.5 Jet skis: Jet skis and other similar motorized personal watercraft are not allowed.

18.6 Parasailing: Parasailing, paragliding, and other similar airborne devices pulled aloft and/or towed by Watercraft are not allowed.

18.7 Directions: Persons boating on City Waters or using Boating Facilities must comply with all directions given by DPR staff, including safety practices at the Boating Facilities, entry of Watercraft into City Waters, Boating safety, environmental preservation, and other common courtesies and practices needed to assure the public enjoyment and protection of Boating, Watercraft and Boating Facilities.

18.8 Right of inspection/compliance: Any DPR staff or Enforcement Official (as defined in 20.4 below) shall have, as a condition of any Boating permit and the public use of City Waters and Boating Facilities, a right to access and inspect any Watercraft for compliance with this 18.0 and the Park Use Rules & Regulations. Refusal to allow such access or inspection or refusal to comply with this 18.0 shall be sufficient grounds for the DPR staff or Enforcement Official to order the immediate removal of a Watercraft from City Waters, Boat Facilities or Park Facilities, and any permit fees paid shall be forfeited.

18.9 Assumption of risk/liability: Any person engaged in any activity allowed under this 18.0 assumes all risks associated with such activity. Any person engaged in any activity allowed under this 18.0 is liable for any damage or injury caused by said activity.

**19.0 Golf.** (39-23) The regulation and control of Golf and golf-related activities, as specified herein, is important to the safe and harmonious public use of Golf Facilities and for the protection and preservation of Golf Facilities.

19.1 Definitions:

19.1.1 *DPR Golf Course* means any golf course, including Golf Facilities, owned by the City and operated by DPR or a concessionaire under a license with the City.

19.1.2 *Golf Facility* means any portion of a DPR Golf Course, including clubhouses, restaurants, bars, patio areas, restrooms, pro shops, snack shacks, irrigation systems, practice putting greens, practice chipping areas, tee boxes, fairways, greens, roughs, water hazards, sand traps, golf paths, bridges, driving ranges, miniature golf courses, aqua golf facilities, parking lots, and related amenities and support facilities.

19.1.3 *Golf* means the public play of golf or related golf activity, including the use of golf carts, on a DPR Golf Course.

19.1.4 *Golf Regulations* mean those rules and regulations which are integrated in the DPR permitting process for Golf and which are applicable to Golf on a DPR Golf Course and the use of Golf Facilities. Golf Regulations are administered through the permitting system for Golf on a DPR Golf Course and are enforceable under this 19.0.

19.1.5 *Golf Regulations Notice* means notice of Golfing Regulations provided to those engaged in Golfing or related activities or the use of Golf Facilities by means of signs or other postings



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placed in prominently visible locations within a DPR Golf Course or a Golf Facility, by devices or directional signs controlling movement (including by golf carts) on a DPR Golf Course, or by brochures or other written materials distributed to those with a permit to engage in Golf on a DPR Golf Course; however, notice of Golf Regulations may also be directly provided by verbal communication or written notice from DPR staff or an Enforcement Official (see definition in 20.4 below) to members of the public.

19.2 Golf at a DPR Golf Course and use of a Golf Facility: Golf at a DPR Golf Course and the use of Golf Facility are allowed only as specified in this 19.2:

19.2.1 Access and Use: Golf may occur only on a DPR Golf Course designated by the DPR Executive Director for Golf by the public and only to the extent that specific Golf activity is authorized by the DPR Executive Director. Access to or use of a DPR Golf Course or the use of a Golf Facility when the same is closed to the public is prohibited.

19.2.2 Permits and Fees: Golf permits are required and must be obtained in order to engage in Golf on a DPR Golf Course. Golf permits must be available for inspection at all times. The Admission Fees provision of 3A.0 shall be applicable to DPR Golf Courses. With respect to Failure to Have a Required Permit, see 3B.3.

19.2.3 Limited exceptions to 19.2.1 and 19.2.2: Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing Golf at a DPR Golf Course, including tournament play, so long as there is compliance with the terms, conditions and restrictions of the permit or contract and applicable Golf Regulations and Golf Regulations Notice.

19.2.4 Golf Regulations: Golf on a DPR Golf Course and the use of Golfing Facilities by the public shall be subject to such requirements, restrictions and prohibitions set forth in the Golf Regulations and as provided by Golf Regulations Notice. All persons, who are engaged in Golf on a DPR Golf Course or utilizing Golf Facilities, are required to be knowledgeable of the Golf Regulations and act in compliance with said Golf Regulations and Golf Regulations Notice at all times.

19.2.5 Other Public Access and Pets: Public access to the Golf area of a DPR Golf Course for purposes other than for authorized Golf or to Golf Facilities closed to the public is not allowed. Pets are not allowed on a DPR Golf Course. Exceptions to this rule:

19.2.5.1 Access to areas within a DPR Golf Course designated by the DPR Executive Director for public access and use, other than for Golf but including pet walking, is allowed to the extent authorized by the DPR Executive Director.

19.2.5.2 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing non-Golfing access and use and/or pets at a DPR Golf Course so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

19.2.5.3 Trained service animals for the disabled are allowed but must be leashed and under control at all times, except that they may be unleashed as necessary so that the animal can provide the services for which it was trained.

19.2.6 Golf Carts: The operation and handling of any golf cart in such a manner as to unjustifiably or unnecessarily annoy or frighten or endanger other golfers or DPR staff or other users of

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golf carts, or the reckless or careless operation of a golf cart, is prohibited. Operators of golf carts must be at least sixteen (16) years of age and have a valid driver's license.

19.2.7 Minors: Children under the age of twelve (12) must be accompanied by someone sixteen (16) years of age or older while on a DPR Golf Course.

19.2.8 Alcohol: Alcohol Beverages and 3.2 Beer (as both are defined in 8.1 above) must be purchased at a Golf Facility and must be consumed on premises. All Alcohol Beverages and 3.2 Beer brought by a person onto a DPR Golf Course, but not purchased on premises, shall be confiscated and disposed of.

19.2.9 Human-Powered Devices & Motorized Vehicles: Human-Powered Devices (as defined in 16.1.1 above) or Motorized Vehicles (as defined in 17.1.1 above), with the exception of authorized golf carts and except as Motorized Vehicles are driven or ridden by authorized personnel, shall not be allowed on DPR Golf Courses outside of public parking lots and driveways.

19.2.10 Modifications: Modifications, temporary or permanent, to the grounds, playing surface or facilities associated with a Golf Facility are not allowed without the prior authorization of the DPR Executive Director.

19.2.11 Smoking: The smoking restrictions of 8B.0 above shall apply to clubhouses, restrooms, patio areas, miniature golf courses, driving ranges, practice putting greens, and practice chipping areas.

19.2.12 Paid Lessons/Coaching: No private lessons, coaching or similar services for pay or other consideration, except by authorized personnel, are allowed on a DPR Golf Course. Exception to this rule:

19.2.12.1 Events or specific activities for which a permit has been issued or a contract with the City has been entered authorizing private lessons, coaching or similar services for pay or other consideration, so long as there is compliance with the terms, conditions and restrictions of the permit or contract.

19.2.13 Directions: Golfers must comply with all directions given by DPR staff at a DPR Golf Course, including starting times and locations, sequence of holes to be played, pace of play, divot replacement, appropriate attire and shoes, player safety, environmental preservation, and other common courtesies and practices needed to assure the public enjoyment and protection of DPR Golf Courses.

19.3 Right of inspection/compliance: Any DPR staff or Enforcement Official (as defined in 20.4 below) shall have, as a condition of any Golfing permit and the public use of a DPR Golf Course or a Golf Facility, a right to access and inspect any golf cart and its content for compliance with this 19.0 and the Park Use Rules & Regulations. Refusal to allow such access or inspection or refusal to comply with this 19.0 shall be sufficient grounds for the DPR staff or Enforcement Official to order the person in violation to leave the DPR Golf Course and any Golf Facility, and any permit fees paid shall be forfeited.

19.4 Assumption of risk/liability: Any person engaged in any activity allowed under this 19.0 assumes all risks associated with such activity. Any person engaged in any activity allowed under this 19.0 is liable for any damage or injury caused by said activity.



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**20.0 Compliance with lawful order; identification; interference or evasion.** (39-24) In order to assure that the Park Use Rules and Regulations are fully, fairly and accurately enforced, the public is expected to cooperate with Enforcement Officials, as defined herein.

20.1 Compliance with lawful order: All persons must comply with any lawful order issued by an Enforcement Official when the Enforcement Official has reason to believe that a violation of the Article I Ordinances and the Park Use Rules and Regulations has occurred. If so ordered by an Enforcement Official, the person in violation must immediately cease the violation and/or take appropriate action to correct or mitigate the effect of the violation. If so ordered by an Enforcement Official, the person in violation must leave the Park Facility when the Enforcement Official has reason to believe that the person will not comply with a lawful order to cease the violation and/or to take appropriate action to correct or mitigate the effect of the violation.

20.2 Identification: All persons must provide appropriate and correct identification to an Enforcement Official when the Enforcement Official has reason to believe that a violation of the Article I Ordinances and the Park Use Rules and Regulations has occurred. If the person has available some valid form of identification, such as a driver's license or a work or school badge, the person must promptly present the identification to the Enforcement Official upon request. If the person does not have available any such identification, the person must provide his or her correct and full name, address and other identifying or contact information the Enforcement Official may request.

20.3 Interference or evasion: A person may not interfere with an Enforcement Official in the performance of that Enforcement Official's duties or evade lawful actions by an Enforcement Official against said person in the enforcement of the Article I Ordinances and the Park Use Rules and Regulations.

20.4 Enforcement Official defined: An Enforcement Official is a person employed by the City and County of Denver and charged by the DPR Executive Director or other authorized City official with enforcing the Article I Ordinances and the Park Use Rules and Regulations, such as a Park Ranger. A Denver Police Officer is also an Enforcement Official.

# **Exhibit C**

**CITY AND COUNTY OF DENVER  
DEPARTMENT OF PARKS & RECREATION**

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned \_\_\_\_\_, a \_\_\_\_\_ corporation organized and existing under and by virtue of the laws of the State of \_\_\_\_\_, and authorized to transact business in the State of Colorado, hereafter referred to as the "Contractor", and \_\_\_\_\_, a corporation organized and existing under and by virtue of the laws of the State of \_\_\_\_\_, and authorized to transact business in the State of Colorado, as Surety, are held and firmly bound unto the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, hereinafter referred to as the "City", in the penal sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents;

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the above bounden Contractor has entered into a written contract with the aforesaid City for furnishing all performance and services, and everything necessary for and required to do and perform the obligations identified under **CONTRACT NO.** \_\_\_\_\_, Denver, Colorado, and has bound itself to perform the obligations within the time or times specified, all as designated, defined and described in the said Contract and Conditions thereof, a copy of said Contract being made a part hereof;

NOW, THEREFORE, if the said Contractor shall and will, in all particulars well and truly and faithfully observe, perform and abide by each and every Covenant, Condition and part of said Contract, and the Conditions, Obligations, and other Contract Documents thereto attached, or by reference made a part thereof and any alterations in and additions thereto, according to the true intent and meaning in such case, then this obligation shall be and become null and void; otherwise, it shall remain in full force and effect;

PROVIDED FURTHER, that if the said Contractor shall satisfy all claims and demands incurred by the Contractor in the performance of said Contract, and shall fully indemnify and save harmless the City from all damages, claims, demands, expense and charge of every kind (including claims of intellectual property infringement) arising from any act, omission, or neglect of said Contractor, its agents, or employees with relation to said services; and shall fully reimburse and repay to the City all costs, damages, and expenses which it may incur in making good any default based upon the failure of the Contractor to fulfill its obligations for the full guarantee period provided in the Contract Documents, then this obligation shall be null and void; otherwise it shall remain in full force and effect;

PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to contracts with others in connection with the services or obligations to be performed thereunder, shall in any way affect its obligation on this bond and it does hereby waive notice of any change, extension of time, alteration or addition to the terms of the Contract, or contracts, or to the obligations;

PROVIDED FURTHER, that this Performance Bond shall remain in full force and effect from the effective date of this Performance Bond through and until ninety (90) days after the expiration date set forth on the Contract or any amendment to that Contract, with the Surety being obligated to pay all valid claim(s) under this Performance Bond existing prior to the date of expiration of the Contract, including any claim(s) arising after the date of expiration but that survive the date of expiration under the terms of the Contract, when said claim(s) are submitted by the City on or before ninety (90) days following the date of expiration.

PROVIDED FURTHER, that the Surety shall have the right to terminate its liability under the Performance Bond upon providing the City with sixty (60) days prior notice by registered or certified mail of the Surety's intention to so terminate, but the Surety shall remain liable for all sums due under the Performance Bond through and until ninety (90) days following the date of the written notice or through and until ninety (90) days following the expiration date of the Contract in the event the Surety should terminate the Performance Bond without the required notice to the City.

PROVIDED FURTHER, if the Performance Bond is terminated for any reason during the duration of the Contract, the Contractor shall be responsible for replacing the Performance Bond at least thirty (30) days prior to the date of



termination, and any failure to replace the terminated Payment and Performance Bond shall be grounds for immediate suspension or termination of the Contract, as the discretion of the City.

IN WITNESS WHEREOF, said Contractor and said Surety have executed these presents as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

Attest:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
**Contractor**

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
**Surety**

By: \_\_\_\_\_  
Attorney-In-Fact

(Accompany this bond with Attorney-in-Fact's authority from the Surety to execute bond, certified to include the date of the bond).

**APPROVED AS TO FORM:**

KRISTIN M. BRONSON, Attorney  
for the City and County of Denver

By: \_\_\_\_\_  
**Assistant City Attorney**

**APPROVED FOR THE CITY AND  
COUNTY OF DENVER**

By: \_\_\_\_\_  
**Michael B. Hancock**  
**MAYOR**

By: \_\_\_\_\_  
**ALLEGRA "HAPPY" HAYNES**  
**MANAGER OF THE DENVER DEPT.**  
**OF PARKS & RECREATION**